EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

91-412
NO.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1991

IN RE THE MARRIAGE OF

JEAN ROSENBAUM,

Respondent, Appellant, Petitioner,

acting Pro Se,

and

KURT ROSENBAUM,

Petitioner, Appellee, Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT.

PETITION FOR WRIT OF CERTIORARI

Jean Rosenbaum, Pro Se
1354 West Greenleaf Street
Chicago, Illinois 60626
973-6047 (312)

(a) QUESTIONS PRESENTED FOR REVIEW.

(1) If lower State Courts of review and trial courts are required to follow the decisions of both the Supreme Court of United States, and their State Supreme Court (Illinois)?

(2) If it is the custom of the Supreme Court of United States, upon the request of one or more Justices, to ask for a brief from a litigant whose attorney has neither been admitted to the bar of that Court, or filed an appearance there, when it considers the allowance of a Petition for Writ of Certiorari?

(3) If it is the custom of the Supreme Court of United States, upon the request of one or more Justices, to ask for a brief from a litigant, whether acting Pro Se or represented by an attorney, who has filed none of the

documents required by United States Supreme Court Rules, when it considers allowance of a Petition for Writ of Certiorari?

(4) If it is the custom of the Supreme Court of United States to ask for a brief from a litigant, on the request of one of more Justices, if it appears from the Record that the case has become moot and has abated, when it considers allowance of a Petition for Writ of Certiorari?

(5) If the Appellate Court acted beyond its jurisdiction in any respect in its MODIFIED ORDER? (Appendix (3)-(66)).

(6) If the Appellate Court abused its discretion, and erred by affirming the contempt order entered against Jean Rosenbaum, and the amount of attorney's fees assessed against her?

(7) If the Judgment of Dissolution of Marriage has ever been a completely final Judgment?

(8) If Jean Rosenbaum is entitled to request that the Judgment of Dissolution of Marriage be vacated, and the case remanded to be dismissed?

(9) If Jean Rosenbaum's rights under the United States Constitution have been violated by the Court(s) below either deliberately or inadvertently?

(b) PARTIES TO THE PROCEEDING BELOW.

See Footnote[1], this page.

1/_____

In trial court, JEAN ROSENBAUM, the Wife *, was Respondent, and KURT ROSENBAUM, the Husband *, was Appellee.

In the Appellate Court of Illinois, First District, Wife was Appellant, and Husband was Appellee.

In the Supreme Court of Illinois, Wife was Petitioner, and Husband was the Respondent.

In the prior appeal, which is the basis for the instant appeal, the designations were identical, with the exception of the Supreme Court of Illinois. There, Husband was both Respondent and Petitioner, there being two different Petitions for Appeal, each party filing one. The Modified Order (Appendix (6)), erroneously states Wife filed both of the Petitions; no correction was made.

*_____

NOTE: Hereinafter in this document, Wife, who has acted Pro Se for years without legal training, will be referred to as "JEAN." Husband, who has continually been represented by expensive attorneys, will be referred to as "KURT." Most of Kurt's legal expenses have been paid from marital property.

(c) TABLE OF CONTENTS.

1/ The separate, piecemeal appeals were filed individually with separate filing fees, and eventually consolidated by the Appellate Court.

TABLE OF AUTHORITIES

(d) OPINIONS BELOW.

The Appellate Court of Illinois, First District, entered no published Opinions. Both its initial Order, and its Modified Order Upon Denial of Petition for Rehearing were entered under Ill. Rev. Stat. (1991), Ch. 110-A, Supreme Court Rule 23, that, in part, says:

> "A case shall be disposed of by opinion when a majority of the panel deciding the case determines that (1) the case involves an important new legal issue or modifies or questions an existing rule of law; or (2)

the decision considers a conflict or apparent conflict of authority within the appellate court .....

"All cases not required by the foregoing paragraph to be disposed of by opinion shall be disposed of by a written order which shall succinctly state the facts, the contentions of the parties, the reasons for the decision, the disposition, and the names of the participating judges. Orders are not precedential, and will not be published. They may be invoked, however, to support contentions such as double jeopardy, RES JUDICATA, collateral estoppel, or the law of the case."

On January 22/23, 1991, the Appellate Court entered an Order denying Jean's MOTION FOR PUBLISHED OPINION. (Appendix (74)).

On June 5, 1991, the Supreme Court of Illinois entered an Order denying Jean's timely-filed PETITION FOR APPEAL AS A MATTER OF RIGHT, or in the Alternative, PETITION FOR LEAVE TO APPEAL. (Appendix (76)).

(e) JURISDICTION.

(i) The initial Order of the Appellate Court of Illinois, First District, was entered on December 28, 1990. This was replaced by a MODIFIED ORDER UPON DENIAL OF PETITION FOR REHEARING entered on February 5, 1991

(ii) A timely PETITION FOR REHEARING was filed by Jean on January 18, 1991. It was denied on February 5, 1991, when the Appellate Court entered the MODIFIED ORDER UPON DENIAL OF PETITION FOR REHEARING.

(iii) The statutory provision believed to confer on the Supreme Court of United States jurisdiction to review the judgment in question by writ of certiorari is 28 U.S.C. §1257(a). This Court's Rule 10-.1(c), 28 U.S.C. (1990), is also applicable.

(f) CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

The following clauses of the United States Constitution, and the statutory provisions involved, are:

1) United States Constitution, Amendment V (Appendix (105));

2) United States Constitution, Amendment XIV (Appendix (106));

3) Ill. Rev. Stat. (1989), Ch. 38, Par. 113-3.1-(b), (Appen.(107));

4) Ill. Rev. Stat. (1989), Ch. 40, Par. 508(b), (Appendix (108));

5) Ill. Rev. Stat. (1989), Ch. 110, Section 2-1401; (Appendix (109)(110));

6) Ill. Rev. Stat. (1989), Ch. 110-A, Par. 305(a)(b), (Appendix (111)-(112)).

See (Appendix (105)-(112)) for the texts of the above.

(g) STATEMENT OF THE CASE.

The jurisdiction of the Appellate Court of Illinois, First District, was conveyed by Ill. Rev. Stat. (1989), Ch. 110-A, par. 301, that states:

> "Every final judgment of a circuit court in a civil case is appealable as of right. The appeal is initiated by filing a notice of appeal. No other step is jurisdictional."

The roots of this Petition for Certiorari are in the prior appeal submitted to the Supreme Court of United States by Jean, in a timely-filed Jurisdictional Statement. This case, No. 87-1320, was docketed on January 4, 1988. The U. S. Supreme Court's Order entered March 21, 1988, read, without additional comment:

> "The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari is denied."

In that case, no attorney filed any papers, pursuant to U. S. Supreme

Court Rule 5, seeking admission to practice in the highest Court on behalf of Kurt. Nor did anyone file any other papers on his behalf, and Kurt did not notify the Court of any intention to act Pro Se. (EXHIBIT "A", Appendix (113)).

On March 16, 1988, pursuant to old U. S. Supreme Court Rule 10.4, Jean wrote a letter of notification to the Court Clerk of her belief that Kurt evidenced his intention to abandon the case, and no longer had an interest in the outcome. No answer was received from Kurt or on his behalf, as the Rule required, if he intended otherwise.

Appellate records indicated the Appellate Court Mandate had been sent to trial court, but the lower court had no record of it. Eventually it was found, and immediately thereafter Jean filed under Ill. Rev. Stat. (1988)

Ch. 110, Par. 2-1401, a COMPLAINT-- PETITION TO VOID "JUDGMENT OF DISSOLUTION OF MARRIAGE" ENTERED DECEMBER 19, 1983. The Complaint, filed August 11, 1988, asked the Court to void and/or vacate the Judgment of Dissolution, or as a lesser alternative, to hold further hearings on the res judicata issue and other matters of importance. It pointed out that although the original case was filed under the older Illinois divorce statute embracing mental cruelty, the newer no-fault divorce act became effective during the period of review by Appellate Court, and the Justices had possibly been influenced by the newer Act. Trial court was also told that new evidence appeared indicating that the main witness against Jean during the divorce trial was now in possession of her very costly sterling

silver flatware, full service for 12, which had been left with daughter Jody for safekeeping. The court was newly informed about Kurt's over-exposure to atomic radiation. Not only was his office in the University of Chicago area, but it also appeared he had been on an airplane many years ago that flew through an atomic cloud. His behaviour had been eratic for a long time.[2]

Jean timely-filed a MOTION TO VOID APPELLATE MANDATE, alleging that the Appellate Court had exceeded it jurisdictional powers in the prior appeal, intruding on territory which was exclusively that of the Illinois Supreme Court. She then filed a

2/ At time of writing, Kurt is 78 years old. Jean will be 70 years old in a few months. They have three grown children, who have suffered many setbacks, partially due to the troubled situation.

timely MOTION FOR WRITTEN ADJUDICATION ON "ABANDONMENT OF CASE BY PETITIONER" based on Kurt's disregard of Jean's filings in the U. S. Supreme Court. She timely-filed a MOTION TO STAY ENFORCEMENT OF JUDGMENT OF DISSOLUTION OF MARRIAGE applying to trial court proceedings; it was eventually denied, as was Jean's POST-HEARING (TRIAL) MOTION TO VACATE, OR MODIFY ORDER ENTERED AUGUST 22, 1988, DENYING "COMPLAINT-PETITION," in an Order entered March 29, 1989. Trial court also denied interlocutory review requested by Jean, and denied her MOTION RE SUPERSEDEAS AND STAY PENDING APPEAL.

As Appeal No. 89-1152 proceeded, Jean asked Appellate Court to set a supersedeas and allow a stay, which it denied. Appellate Court did not rule on 89-1152 immediately, but awaited

completion of the further proceedings below, so it could consolidate the piecemeal appeals and enter one Order on all.

Piecemeal appeal No. 89-2068 primarily involved the attempt of Kurt and his attorney, Edward A. Berman, to have the Judgment of Dissolution enforced with regard to the division of the jointly-held Keystone stock, which was of considerable worth. They filed a Petition for Rule to Show Cause, asking why Jean should not be held in contempt of Court, to which she timely responded. This was despite the fact her efforts to have the Judgment of Dissolution voided was well under way, and they had not appeared in any manner when the case was before the U. S.Supreme Court. Jean asked trial court for additional discovery, as she learned that the Rosenbaum optometric practice in self-

owned quarters in a cooperative Shopping Center had been sold. Jean had once testified to an ownership paper that made her a one-half owner in the Shopping Center interest, which had disappeared, but the entire package had been awarded to Kurt in the Judgment of Dissolution, which described the practice as "minimal value." [3] Additional extraordinary circumstances also required further discovery. The Judgment of Dissolution gave Kurt control of approximately 90% of the marital property; in an Affidavit recently filed, he testified that the total worth had dwindled to about one-half of its former value. Discovery was denied. Although at Jean's request, Judge Julia Nowicki had earlier entered an Order stating her lack of prejudice,

3/ See (Appendix (101)), the pertinent portions of the Judgment of Dissolution.

in No. 89-2068 she later entered a contradictory order on her own initiative, denying the request of Jean she had granted, because she had no duty to do so.

On September 14, 1989, Jean filed a MOTION (1) Re Jurisdiction; (2) For Continuance re Keystone stock if Trial Court's Jurisdiction is Established. To this Motion was attached a copy of the inept Keystone stock document given to her to sign by Kurt's attorney (EXHIBIT "B", Appendix (114)).

Because of the questionable, unfair division of marital property in the Judgment of Dissolution, and because of Kurt's frequent moments of confusion, Jean frequently expressed her wish to the Court, Kurt and his attorney, that the well-invested Keystone stock, protected by joint-ownership, be left intact for the benefit of the Rosenbaums, Kurt, Jean, their three grown children,

and the children's possible issue, for family emergency. This was to no avail.

The sum alloted Jean in the Judgment of Dissolution is in a Court-controlled account at the Amalgamated Bank in Chicago, Illinois, to which Kurt must add the permanent maintenance payment allowed Jean, each month. Although a modest sum initially, the interest has accumulated, together with the monthly payment (even though it is not always regular), to over $100,000.00. Jean asked trial court for leave to withdraw some of the money, not for personal use, but to place in another Court-controlled account at another Bank, as it exceeds the Federal Insurance limit. This was denied. At this point in time, the account is totally Jean's, and not in joint ownership with Kurt as the Appellate Court Modified Order states.

Appendix (40). Jean's Petition for Rehearing called this error to the attention of the reviewing court, but it was not corrected.

Judge Nowicki, was being relocated to Housing Court and transferred most outstanding matters elsewhere; however, she expressly retained jurisdiction over the Keystone stock issue.

At the Court's request, Jean timely-filed a THIRD ANSWER TO "PETITION FOR RULE TO SHOW CAUSE; Kurt was given 21 days to answer, which he did not do. On August 18, 1989, although Jean still had not been presented with an improved Keystone stock document to sign by Kurt's attorney, the Court entered an Order denying Jean's MOTION TO DISMISS PETITION FOR RULE TO SHOW CAUSE, and found Jean in contempt of court for not signing to divide the Keystone stock.

Jean immediately appealed the August 18, 1989 contempt order, including it in an Amended Notice of Appeal timely-filed on August 25, 1989. On August 30, 1989, she filed a MOTION RE STAY OF PROCEEDINGS AND SUPERSEDEAS, PURSUANT TO FILING "AMENDED NOTICE OF APPEAL," in Appellate Court. Judge Nowicki no longer had jurisdiction of the contempt order for the time-being. The AMENDED NOTICE OF APPEAL also included Judge Nowicki's denial of supersedeas and stay, and other orders entered by her.

Appellate Court issues orders only once a week, and did not rule on the MOTION RE STAY AND SUPERSEDEAS at once. Meanwhile, at a trial court hearing on September 29, 1989, the cause was continued to October 20, 1989 for status, and the Court declined to exercise its jurisdiction temporarily.

(Appendix (80)). This concludes the matters encompassed by No. 89-2068.

Piecemeal Appeal No. 90-536 primarily involved the aftermath of the contempt order entered against Jean, and the Court award of $2,667.50 to Kurt's attorney from Jean because of the contempt proceedings resulting from overlapping dates and confusion.

Although Jean asked Appellate Court to set the supersedeas and stay all matters on August 30, 1989, its Order was not forthcoming until October 10, 1989 (Appendix (69)). The Court set the supersedeas at $50,000.00 (Jean's share of the Keystone stock), giving her until October 24, 1989 to comply and secure a stay. The bondsmen unanimously refused to provide a supersedeas bond for a Pro Se litigant, and Jean filed a MOTION of explanation to Appellate Court on October 19,

1989 (before the deadline date), offering to post stock with the Court Clerk to serve as supersedeas, a procedure that met approval in another appeal. She also asked for a Prehearing Conference to solve the supersedeas bottleneck, and a continuance to file the supersedeas for the stay, because of the setbacks. Appellate Court, considering Motions only once a week, did not immediately respond. On October 17, 1989, at Kurt's request, Appellate Court struck the August 18, 1989 contempt order from the Amended Notice of Appeal; however, Jean did not have knowledge of the order and did not receive a copy for about two weeks. Her Motion for a Prehearing Conference was still not ruled on, and her original Motion re Stay and Supersedeas asked for a stay of the enforce-

ment of the entire Judgment of Dissolution, not just the contempt order.

On October 20, 1989, the matters set for status were continued until November 1, 1989, by Judge Nowicki.

On November 1, 1989, Attorney Berman suddenly waved the Appellate Court Order entered October 17, 1989, that struck the August 18, 1989 contempt order from the Amended Notice of Appeal, in front of the Court and Jean. Judge Nowicki, at this "status" hearing, immediately decided she had jurisdiction, and threatened Jean with imprisonment at once if she did not sign the Keystone stock division paper, despite the impending marriage of the Rosenbaum daughter. Under duress, Jean signed, thereby purging herself of "contempt." (Appendix (115), EXHIBIT "C".

The Appellate Court Order denying Jean a Prehearing Conference and

continuance on the supersedeas/stay issue was entered November 7. (Appendix (72)).

Beginning January 2, 1990, the entire case was transferred to Judge Irwin Solganick, due to the leave of absence of Judge Nowicki.

Kurt filed an AMENDED PETITION FOR ATTORNEY'S FEES FOLLOWING ORDER OF CONTEMPT, which Jean answered, and on January 26, 1990, Attorney Berman was awarded $2,667.50 in fees from Jean to approximately the date of her purge. The Court denied Jean's MOTION RE WEDDING OF LITIGANTS' DAUGHTER, in which she asked that Kurt be required to telephone her about the arrangements and financing. It required Kurt to provide Jean with a copy of the life insurance policy ordered by the Judgment of Dissolution (she is beneficiary). She still does not have it, although a

deadline date was set by the Court. It set the supersedeas for Appeal No. 89-2068 at $2,667.50, to be posted with the Circuit Court of Cook County Clerk in stock form. Jean posted the stock that very day, February 20, 1990, and the stay was automatically obtained.

Although the Court denied Jean's first request to put the Keystone stock of both parties (it had now been divided), under Court control, eventually he changed his mind. The Judge refused to vacate Judge Nowicki's November 1, 1989 contempt order. This concludes the basic matters encompassed by No. 90-536.

In piecemeal appeal No. 90-1911, later consolidated, the main item is the additional Court award to Kurt's attorney from Jean of $1,320.40, making a total award of $3,987.90.

The $1,320.40 was for alleged services of the attorney provided after the date of Jean's purge. Once the Keystone stock was divided, Attorney Berman filed incessant petitions for fees on vague grounds, attempting to secure additional sums from Jean; they were denied by the Court, it finally realizing that Jean was being harassed. Jean again attempted discovery, for the purpose of securing knowledge if Attorney Berman's alleged hourly rate of $160.00 was, in fact, his usual fee, and if there was any relationship in his filings to another case in which he represented Richard, Jean's son. Discovery was denied, but at Jean's new request, the Keystone stock was finally put under Court control on June 26, 1990. On that date, the Court also denied Jean's Post-Trial Motion, and permitted the stock in

the sum of $2,667.50 already posted with the Circuit Court Clerk by Jean to serve as the supersedeas to stay the judgment, which is the subject matter of Appeal 90-1911. At a later date, the same stock was permitted to serve as supersedeas to stay the lower Court judgment, pending appeal to the Supreme Court of United States, (Appendix (93)), July 2, 1991 Order. Jean's Post-Trial Motion, (and its Amendment) was denied, in this, as well as in the prior proceedings that were the subject matter of each of the piecemeal appeals.

The Second Division of Appellate Court denied Jean's timely-filed MOTION FOR STATEMENT OF NON-PREJUDICE, OR FOR VOLUNTARY DISQUALIFICATION; PETITION FOR CHANGE OF PANEL; MOTION FOR PREHEARING CONFERENCE; MOTION FOR RECONSIDERATION OF DENIAL OF ORAL ARGU-

MENT: MOTION FOR PUBLISHED OPINION; APPLICATION FOR CERTIFICATE OF IMPORTANCE: and MOTION TO CORRECT FACTUAL ERRORS IN MODIFIED ORDER UPON DENIAL OF PETITION FOR REHEARING, etc. (See Appendix (67)).

On June 5, 1991, the Supreme Court of Illinois denied the PETITION FOR APPEAL AS A MATTER OF RIGHT, or in the Alternative, PETITION FOR LEAVE TO APPEAL. (Appendix (76)).

Jean timely-filed a NOTICE OF APPEAL in the Appellate Court of Illinois, First District, on July 5, 1991, re this appeal to the Supreme Court of United States.

Pending appeal to the Supreme Court of United States, the Illinois Supreme Court entered an order staying its Mandate, and the trial court entered an order staying enforcement of all judgments involved in the appeal to the highest court (Appendix (93)-(94)).

(h) RAISING THE FEDERAL QUESTION.

The Federal question was first raised at the onset, in Jean's COMPLAINT-PETITION TO VOID "JUDGMENT OF DISSOLUTION OF MARRIAGE" ENTERED DECEMBER 19, 1983. After describing the reasons why the Judgment of Dissolution should be voided, including its violation of res judicata and related principles, Jean wrote (R. C-12):

> "11. WHEREFORE, so the Constitutional right of Jean Rosenbaum to due process and equal protection of law, United States Constitution, Amendments V and XIV, Illinois Constitution, Article I, Section 2, is not infringed upon, it is requested that the JUDGMENT OF DISSOLUTION OF MARRIAGE be voided in entirety because of the aforedescribed flaws, and infractions of law."

The COMPLAINT was filed on August 11, 1988, after the Appellate Court Mandate obstensibly relayed to trial court, was finally found and recorded. The COMPLAINT was denied in Judge Nowicki's Order entered August 22 (or 23), 1988.

Jean's timely-filed POST-HEARING (TRIAL) MOTION TO VACATE OR MODIFY AUGUST 22, 1988, ORDER was denied on March 29, 1989, after many Court-instigated delays, in a 7-page Order. The Appellate Court reviewed this matter slightly in the MODIFIED OPINION, which disagreed with most of Jean's points. The Constitutional question was briefed in Jean's timely-filed Brief for 89-2068, on pages 26-27, in a section entitled "THE TRIAL COURT VIOLATED WIFE'S CONSTITUTIONAL RIGHT TO DUE PROCESS AND AND EQUAL PROTECTION OF LAW UNDER BOTH THE UNITED STATES CONSTITUTION AND THE STATE OF ILLINOIS CONSTITUTION."

Jean's Brief for 89-1152, filed in Appellate Court, contains a section on pages 31-32, that is entitled: "THE CONSTITUTIONAL RIGHTS OF WIFE, BOTH FEDERAL AND STATE, HAVE BEEN VIOLATED BY THE TRIAL COURT, AS WELL AS BY

THE APPELLATE COURT IN THE PRIOR APPEAL. In a document filed August 16, 1989, -- "RESPONDENT'S THIRD ANSWER TO "PETITION FOR RULE TO SHOW CAUSE," Jean informed trial court of her belief that under the decision in People v. Barker (1974) 59 Ill. 2d 201, 203-204, 319 N.E. 2d 810, the Appellate Court had violated her right to due process and equal protection of law, United States Constitution, Amendments V and XIV, by dismissing her prior appeal prematurely (#3 S.R. C-105). In its MODIFIED ORDER, Appellate Court has protested this allegation. It must be noted that it cannot be expected to rule against itself; review by a higher authority is required. On June 4, 1990, Jean filed RESPONDENT'S ANSWER TO "MOTION TO QUASH AMENDED SUBPOENA AND SUBPOENA." On Page 3 (R. C.155; 90-1911), it says:

"If Respondent (Jean) is required to pay exorbitant fees to him (Attorney Berman) at Attorney Berman's and Petitioner's request, then it is only proper that she have access to testimony about what his usual rates are and have been in the near-past, so Respondent can enjoy due process and equal protection of law as conveyed under the United States Constitution, Amendments V and XIV...."

Nevertheless, trial court quashed the subpoenas (Appendix (89)). On June 20, 1990, Jean filed a POST-JUDGMENT (TRIAL) MOTION TO VACATE SPECIFIED PORTIONS OF ORDER ENTERED JUNE 4, 1990, that said:

"Respondent has informed the Court that the fee guideline for a (civil) misdemeanor has been STATUTORILY set at a maximum of $500.00 under Ill. Rev. Stat. (1989), Ch. 38, Par. 113-3.1(b), for Court-appointed Counsel, the fee to be paid to the County. Under the preceding Par. 113-3(c), a maximum of not more than $40.00 for each hour spent in Court session, and not more than $30.00 per hour for time otherwise spent representing a litigant, up to a maximum of $150.00 in a misdemeanor case, has been established. Contempt is a civil misdemeanor. The Court has answered that the statute cited is for "criminal" cases. Respondent has responded that "civil contempt" is of a much lesser nature than criminal acts, and she should not be

> forced to pay the extremely high legal fees of an attorney her Husband hired to legally harass her, that are more than required statutorily for a criminal act. That her rights to equal protection and due process of law under the United States Constitution, Amendments V and XIV, and under the Illinois Constitution, Article I, Section 2, come into play, and are violated by the excessive fees from her ordered by the Court, under the circumstances."

As the MODIFIED ORDER reflects, neither trial court or Appellate Court modified the fee award to Attorney Berman from Jean. (Appendix (91), Post-Trial Motion.)

(i) Not applicable; this case has not been in the United States Court of Appeals.

(j) ARGUMENT.

1. Lower State courts of review and trial courts are required to adhere to the legal principles set by the Supreme Court of United States, and their State Supreme Court (Illinois). Illinois courts have consistently ruled:

> "Appellate Court is obligated to follow decisions of the Illinois Supreme Court and the United States Supreme Court,"

Corbett v. Devon Bank (1st Dist. 1973), 12 Ill. App. 3d 559, 567, 299 N.E. 2d 521. The Appellate Court of Illinois, First District, Second Division, since the turnover of members on its Panel in recent years, has shown an unusual reluctance to do so in this case.

2. To justify its decision in its MODIFIED ORDER that Kurt did not abandon the case during its prior appeal to the Supreme Court of United States, the Appellate Court cites a 1975

article (2 Fed. Proc., L. Ed. §3:202; Prettyman, "Opposing Certiorari in the United States Supreme Court, 61 Va. L.Rev. 197" (Appendix (31)), saying:

> "A brief in opposition to a petition for certiorari may be filed by the respondent (Sup. Ct. R. 22.4) If none is filed, a brief in opposition will be requested from a respondent if even a single justice indicates an inclination to vote for certiorari."

The MODIFIED ORDER omits to mention the requirements of old Supreme Court Rule 5, which specify an attorney must apply for admission to the bar of the U. S. Supreme Court to qualify to practice in that Court. No attorney filed for admission to the bar for the purpose of representing Kurt. (Appendix (113)), EXHIBIT "A"). Nor did any attorney file an appearance on his behalf. It is unlikely that a brief would be requested, if a party's presence in the Court has not been indicated in any way. The question must be answered by

the Justices themselves. "Authorized rule of court has force of law," Weil v. Neary (1929), 278 U. S. 160, 169, 49 S. Ct. 144, 73 L. Ed. 243. In Illinois, Biggs v. Spader (1951), 411 Ill. 42,44, 103 N.E. 2d 104, has ruled:

> "Supreme Court Rules, when established, have the force of law, and must be observed .... failure to comply with Rules justifies the dismissal of the cause."

Ill. Rev. Stat. (1991), Ch. 110-A, Supreme Court Rule 375, considers violation of appeals rules serious enough to permit sanctions against the offender.

It is Jean's belief that the Appellate Court's assumption cited from the Prettyman article, is sufficiently erroneous to require that its ambiguous MODIFIED ORDER be voided, and such other action as this Court deems appropriate.

3. Kurt also violated old U. S. Supreme Court Rules 10.4 and 19.6,

which, in similar language, state:

> "All parties to the proceeding in the court whose judgment is sought to be reviewed shall be deemed parties in this Court, unless the petitioner shall notify the Clerk of this Court in writing of petitioner's belief that one or more of the parties below has no interest in the outcome of the petition. A copy of such notice shall be served on all parties to the proceeding below and a party noted as no longer interested may remain a party here by notifying the Clerk, with service on the other parties, that he has an interest in the petition."

Jean wrote the required letter to the U. S. Supreme Court Clerk, expressing her belief that Kurt no longer had an interest in the outcome of the petition, sending his attorney a copy. Kurt did not respond, as the Rules require, to indicate his continuing interest in the petition. "Authorized rule of court has force of law," Weil v. Neary (1929) 278 U. S. 160, 169, 49 S. Ct. 144, 73 L. Ed. 243, Biggs v. Snader (1951),

411 Ill. 42, 44, 103 N.E. 2d 104.
Although the MODIFIED ORDER makes mention of old Rule 10.4, it refers to new Rule 12.4, (old Rule 19.6), overlooking its identical requirements. Jean's JURISDICTIONAL STATEMENT in the former U. S. Supreme Court appeal was treated as a PETITION FOR WRIT OF CERTIORARI. Citing the "Prettyman" article, and Rule 10.4, Appellate Court, in its MODIFIED ORDER improperly concludes that Kurt did not abandon the case above (Appendix (30)-(31)). It is difficult to understand on what premises the U. S. Supreme Court Justices would request a brief from a party who has not complied with old Rules 5, 19.6 etc; the question must be answered by the Justices themselves, as there appears to be no clarification elsewhere other than the law quoted. Jean contends that the Appellate Court's

oversight and assumption are serious errors which justify vacating the MODIFIED ORDER, and the Judgment of Dissolution, or such other action that this Court deems appropriate.

4. Because Kurt did not answer Jean's Notice expressing her belief he was no longer interested in the outcome of the Petition, the case became moot and abated. In Deakins v. Monaghan (1988), 484 U. S. 193, 199, 108 S. Ct. 523, 98 L.Ed.2d 529, the Court ruled:

> "Article III of the Constitution limits federal courts to adjudication of actual, ongoing controversies between litigants (citations). It is not enough that a controversy existed at the time the complaint was filed, and review was obtained ...."

The court then ruled that because there was no longer a live controversy, the questions were moot. "This court is not empowered to decide moot questions," United States v. Alaska S.S. Co.,

(1920), 253 U. S. 113, 116, 40 S. Ct. 448, 64 L.Ed. 808. As it appears the U. S. Supreme Court was unable to exercise jurisdiction after Kurt dropped out of the case, the Court could not possibly have requested him to file a brief. It is Jean's belief that the Appellate Court's assumption is in error, and enough to void the MODIFIED ORDER, vacate the Judgment of Dissolution, and remand the case with directions to dismiss.

5. The Appellate Court did not have jurisdiction to affirm certain parts of the trial court judgments in its MODIFIED ORDER, as follows:

(a) The Appellate Court acted beyond its jurisdiction when affirming a trial court judgment that refused to recognize that the legal principles of res judicata and

collateral estoppel applied. The final ORDER (Appendix (32)-(33)), states:

> "Jean persists in ignoring Kurt's proof of mental cruelty by Jean's subsequent acts which took place after the 1976 litigation. The 1983 dissolution, which took cognizance of her conduct, therefore, is not subject to vacatur on these grounds."

In reality, it is the present Second Division of the Appellate Court of Illinois, First District, that persists in mis-stating the real facts, which have been called to its attention often. The 1983 Judgment of Dissolution, in Paragraph (5)(Appendix (99)), says:

> "5. That the parties ceased cohabitating together as husband and wife in the Fall of 1965, and have not cohabitated as husband and wife since that date to the present time; the parties have been living separate and apart from one another since that time without fault or provocation on the part of the petitioner."[4]

4/ In trial court Kurt was petitioner.

The published Opinion in Rosenbaum v. Rosenbaum (1st Dist. 1976), 38 Ill. App. 3d 1, 13, 349 N.E. 2d 73 (Appendix (94-a)) reversed a carelessly-entered divorce, ruling Kurt could not prove his lack of provocation, and left his family without a valid reason. As Kurt left in 1965, and could not prove lack of provocation in 1975-1976, how could he have been announced free of provocation in 1965, in a judgment entered in 1983? Furthermore, during the divorce proceedings he filed that culminated in the 1983 Judgment of Dissolution, absolutely no testimony was permitted about events that happened prior to 1976! The 1983 Judgment of Dissolution is ludicrous in this respect, a point that the Second Division prejudicially refuses to admit. The Appellate Court, when affirming the trial court decision on this point,

therefore, violated the established principles of res judicata and collateral estoppel.

Jean is the loving Mother of three grown children, who are also Kurt's, and the family can still grow. Slanderous statements about her appear in a public file, and she has already felt the repercussion from people around her. She cannot even be free of oppressive statements about her conduct when it has legally been proven otherwise, because of the public file in which the Judgment of Dissolution appears.[5]

"A judgment is res judicata in a second action upon the same claim between the same parties," Sunshine Anthracite Coal Company v. Adkins

5/ During the original trial Kurt testified that he had not fulfilled any of his husband's obligations for years, but was awarded a divorce!

(1940), 310 U. S. 381, 402, 60 S. Ct. 907, 84 L.Ed.1263. Housing Authority v. YMCA (1984), 101 Ill. 2d 246, 251-52, 461 N.E. 2d 959, ruled:

> "Res judicata provides that a final judgment is conclusive as to the rights of the parties and their privies, and constitutes an absolute bar to a later action involving the same claim, demand, or cause of action.
>
> "The doctrine of collateral estoppel applies when a party or someone in privity with a party participates in two separate and consecutive cases arising on different causes of action, and some controlling fact or question material to the determination of both cases has been adjudicated against a party in a former suit. The adjudication of the fact or question in the first cause will, if properly presented, be conclusive of the same question in the later suit."

(b) Jean maintains, despite the MODIFIED ORDER (Appendix (27)), that the Appellate Court, Second Division, under the conditions that existed, exceeded its jurisdiction by dismissing her prior consolidated appeal after she filed her Brief, without requiring

Kurt to file a Brief, although his attorney was willing to do so if allowed a continuance. The appeal was dismissed in vague language in an Order containing other matters also, dated May 19, 1987. The pertinent portion of this Order is in the (Appendix (95), Par. 2). It bears a striking similarity to a summary judgment. People v. Barker (1974), 59 Ill. 2d 201, 203-204, 319 N.E. 2d 810, which was not overturned, ruled that the Appellate Court could not summarily dispose of a case without the benefit of either briefs or oral argument, -- only the Illinois Supreme Court has that power. Jean was deprived of the opportunity to file a Reply Brief to any argument Kurt may have had. Although she filed a Petition for Rehearing, it could only be addressed to the method used by the Appellate

Court and matters she considered important, but she could not address herself to any argument used by Kurt, or to a detailed Order such as comes after the reviewing court has completely reviewed the issues.

Appellate Court has justified its action by pretending the issues were simple. Jean cannot understand how the Court's violation of her right to res judicata and collateral estoppel can be labeled "simple," as her Constitutional right to due process and equal protection of law, United States Constitution, Amendments V and XIV, is involved. (Appendix (27)). Ill. Rev. Stat. (1989) Ch. 110-A, Par. 23, requires an Opinion when the Panel reviewing the case modifies or questions an existing rule of law. The Appellate Court severely modified basic, established

law when ignoring the legal axioms of res judicata and collateral estoppel, and under Rule 23, a published Opinion should have been forthcoming, but was not. "An act beyond the jurisdiction of a Court is void and can be vacated at any time," Thayer v. Village of Downers Grove (1938), 369 Ill. 334, 339, 16 N.E. 2d 717, People v. Wade (1987), 116 Ill. 2d 1, 5, 506 N. E. 2d 954, concurs. Jean believes she was justified to request trial court to void the Judgment of Dissolution, which it denied, a decision affirmed by Appellate Court.

6. The MODIFIED OPINION (Appendix (48)), affirms trial court's decision that Jean was guilty of contempt, but strongly oversimplifies the situation. Jean did NOT wilfully refuse to comply with trial court's order to sign the Keystone Stock Power

The stock certificates represented security for the entire Rosenbaum family, and she was afraid of dissipation if half were signed away prematurely. On several different occasions, she asked trial court for a continuance or stay on the issue, until Appellate Court had completed its review; they were all denied. From August 18, 1989 until about November 1, 1989, trial court no longer had jurisdiction of the matter as it had gone to the Appellate Court. Under these circumstances, it would have been absolutely foolhardy to divide the well-protected Keystone stock. The hearing held on November 1, 1989, had been designated as a STATUS hearing only, and Appellate Court had not yet entered its Order relating to Jean's request for a stay on the entire Judgment of Dissolution (which in-

cluded the Keystone stock division. Kurt's attorney had not even presented her with an appropriate document to sign. See (Appendix (114)-(115), EXHIBITS "B" and "C". Exhibit "B" is the first Stock Power Kurt's attorney gave to Jean to sign, to which she strongly objected. Exhibit "C" is the Stock Power she signed on November 1, 1989, under threat of incarceration immediately if she did not comply at once, although Jean initially objected to the form of this document. Kurt's attorney first presented her with the document she signed, in Court that day. She was immediately purged of contempt upon affixing her signature. (Appendix (81)).

"Contempt power, where another remedy is provided by statute, is an alternative, and not an exclusive remedy," Vintage '76, Inc. v. Illinois

Liquor Control Commission (1st Dist. 1979), 78 Ill. App. 3d 463, 466, 397 N.E. 2d 166. In Spallone v. United States, et al, (1990), 110 S. Ct. 625, 627-28, 107 L.Ed. 2d 644, it was ruled:

> "Use of contempt powers places additional limitation on district court's discretion, for in selecting contempt sanctions, court is obliged to use least possible power adequate to end proposed."

Jean contends that the Court's approval of the strongest remedy possible, the contempt order, with intimidating threats of incarceration immediately, under the circumstances, was unjust, and violation of her Federal Constitutional right to equal protection of the law, Amendments V and XIV. Ill. Rev. Stat. (1987-1989), Ch. 40, Par. 508(b), under which the order of contempt was entered, requires that the Court find that "the failure to comply with the order or judgment was

without cause or justification; the court shall order the party against whom the proceeding is brought to pay the costs and reasonable attorney's fees of the prevailing party." Certainly the presentation of an almost blank Stock power to Jean for her signature by Kurt's attorney, which could lead to the defraud of her share of the stock, was a wilful-ful and deliberate act on his part. The Courts refused to consider this factor, as well as the others, apparently choosing to punish Jean for not accepting a divorce, under their "contempt" disguise. The $2,667.50 Jean is required to pay to Kurt's attorney as punishment, is based on his approximately $160.00 per hour rate, which cannot be called "reasonable." The additional award of $1,320.40 to the attorney from Jean represents the same rate for services

he alleges AFTER the date of Jean's purge. Illinois law is not clear on this point; Jean believes that a high charge for services AFTER her purge is not justified. Illinois law, however, is clearly set forth in Ill. Rev. Stat. (1989), Ch. 38, par. 113-3(c), that relates to compensation for an attorney representing a litigant who has been accused under "criminal" contempt. An attorney shall not receive more than $40.00 for each hour spent while Court is in session, and not more than $30.00 for each hour otherwise spent. Jean's was a civil contempt order, to which the MODIFIED ORDER refuses to apply the Criminal Code Statute, (Appendix (62)). Civil contempt is much less serious than criminal contempt, but Jean has unfairly been charged more. The statutory guide-line for attorney's fees when the offense

is a misdemeanor is not more than $500.00 Ill. Rev. Stat. (1989), Ch. 38, Par. 113-3.1(b). Jean, a law-abiding citizen who attempts always to do the "right" thing, should be entitled to the same consideration relating to attorney's fees as a criminal. United States Constitution, Amendments V and XIV. The Appellate Court may have exceeded its jurisdiction on this issue, also.

Kurt's attorney, contrary to case law, charged the same rate for in-office time as he did for in-court time. He also charged a minimum 15-minute rate; if a telephone call took 2-3 minutes, he admitted to charging for 15 minutes, in addition to charging in-court rates.

7. The MODIFIED ORDER, in several places (Appendix (35)), has indicated that the Judgment of Dissolution was final, without pinpointing the date of finality. It must be noted

(a) Pending the prior attempted appeal to the U. S. Supreme Court, on November 3, 1987, Justice Daniel Ward of the Supreme Court of Illinois, issued stay of the Mandate of that Court (Appendix (97)-(98)).

(b) As soon as an Appellate Court Mandate was filed and recorded in trial court, Jean filed the new Complaint-Petition in an attempt to void the Judgment of Dissolution, because of its inaccuracies, etc.

(c) On July 2, 1991, pending this Petition for Certiorari to the U. S. Supreme Court, Judge Irwin Solganick of the Circuit Court of Cook County issued a stay on all matters involved in the various judgments, (Appendix (93)-(94)).

(d) In Re Marriage of Leopando (1983), 96 Ill. 2d 114, 119, 449 N.E. 2d 137, conclusively ruled:

"Until all the ancillary issues are resolved, the petition for dissolution is not fully adjudicated." Despite the requirement in the 1983 Judgment of Dissolution (Appendix (101)-(102)), Jean has still not received a copy of the life insurance policy Kurt was required to provide with her as beneficiary. He has not fulfilled the several trial court orders to that effect. The Judgment of Dissolution anticipates Jean's modest teacher's pension, but it has since been learned that Social Security offset will probably take about two-thirds of it, and she will get the remaining one-third (Appendix (100)). The Courts have been disinterested; all ancillary issues have NOT been resolved, and it appears, then, that the Judgment of Dissolution is not completely final. The MODIFIED ORDER,

and the JUDGMENT OF DISSOLUTION, if not vacated, require more work, therefore.

8. Kurt's abandonment of the case in the prior appeal to the Supreme Court of United States, which is similar to an intentional default, entitles Jean to request that the Judgment of Dissolution be vacated, and the case remanded to be dismissed. Apparently it is too much to expect that the Judges below will vacate their own decisions; therefore, orders from a higher authority must be forthcoming. SUPREME COURT PRACTICE by Stern, Gressman & Shapiro (Sixth Ed. 1986, Bureau of National Affairs, Washington, D. C.) explains:

> Page 722. "The Supreme Court has long held that when a civil case coming from a federal court 'has become entirely moot, it is the duty of the appellate court' not merely to dismiss the appeal but "to set aside (that is, vacate) the decree below and to remand the cause with directions to dismiss."

> Page 723. "In cases from state courts, the Supreme Court does not normally direct that the case be dismissed. Instead, it merely vacates the judgment below and remands the cause for such proceedings as the state court may deem appropriate."
>
> Page 724. "If the Supreme Court merely denies certiorari, vacation of the judgment may be sought in the court below."

In the former proceeding, the Supreme Court merely denied certiorari, so Jean sought vacation of the judgment in the Court below, which it denied. The lower court is required to follow decisions of the U. S. Supreme Court, but will not. Jean is entitled to the same due process and equal protection afforded to a litigant in Federal courts, but the state courts, whatever their reason, have denied their cooperation. It would be appreciated if the U. S. Supreme Court would issue more detailed orders and/or directives to the lower Court(s), so that Jean's rights under the United

States Constitution, Amendments V and XIV, will be properly protected.

9. Jean's rights under the United States Constitution, Amendments V and XIV, have been greatly violated by the trial court and Appellate Court, despite their beliefs to the contrary. Some of these are:

(a) Jean was willing to post a supersedeas to obtain the stay that Appellate Court was willing to grant, but the bondsmen would not do business with her. Trial court would not wait for the problem to be resolved, but immediately threatened Jean with inceration if she did not divide the Keystone stock immediately.

(b) Until November 1, 1989, when Jean was literally forced to sign the Keystone Stock Power, she had received an almost totally blank document to sign from Attorney Berman.

(Appendix (114)). Eventually, she was charged approximately $4,000.00 for NOT signing this dangerous document, which could easily result in defraud to her. With the accumulation of interest charges, the amount may become considerably more, a gruesome penalty under the circumstances.

(c) The legal benefit of the doctrine of collateral estoppel has been denied to Jean by the Court(s) below, causing damage to her reputation.

In Ashe v. Swenson (1970), 397 U. S. 436, 443, 90 S. Ct. 1189, 25 L.Ed. 2d 469, this Court said:

> "Collateral estoppel .... stands for an extremely important principle in our adversary system of justice. It means simply that when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit."
>
> On 436: "The Fifth Amendment guarantee against double jeopardy, applicable here through the Fourteenth Amendment (citations) embodies collateral

estoppel as a constitutional requirement."

In Steffel v. Thompson (1974), 415 U. S. 452, 460-61; 94 S. Ct. 1209, 39 L.Ed. 2d 505, the Court said:

"State courts have the solemn responsibility equally with the federal courts to guard, enforce and protect every right granted or secured by the Constitution of the United States."

Daniels v. Williams (1986), 474 U. S. 327, 331, 106 S. Ct. 662, 88 L.Ed. 2d 662, ruled:

"The due process clause of the Fourteenth Amendment has historically been applied to deliberate decisions of government officials to deprive a person of life, liberty or property .... this history reflects the traditional and common-sense notion .... it was intended to secure the individual from the arbitrary exercise of the powers of government."

This Court should grant certiorari for the following reasons:

1. To give involved citizens, as well as attorneys who must earn their living from practicing law, a better

understanding of legal processes at the highest court level, and the remedies available;

2. To prevent the Appellate Court of Illinois, First District, Second Division, from inflicting hardship on litigants and their families, by evasion of important principles of law;

3. To establish more law to protect families from undue hardship caused by legal violation of Constitutional rights;

4. To aid in the protection of Petitioner's Constitutional rights.

CONCLUSION.

For the reasons set forth above, it is asked that a writ of certiorari be issued to review the MODIFIED ORDER of the Appellate Court of Illinois, First District.

Respectfully submitted,

August 31, 1991.

Jean Rosenbaum

JEAN ROSENBAUM, Petitioner

APPENDIX

A P P E N D I X

TABLE OF CONTENTS

NOTE: RE INITIAL ORDER

The initial order of the Appellate Court of Illinois, First District, Second Division, was entered on December 28, 1990, and evidenced a number of misunderstandings of the actual facts of the case, and other errors.

JEAN ROSENBAUM timely-filed a PETITION for Rehearing, calling some of these misunderstandings and errors resulting therefrom, to the attention of the Court.

On February 5, 1991, the Appellate Court replaced the initial 34-page order with a 34-page MODIFIED ORDER UPON DENIAL OF PETITION FOR REHEARING.

The Modifed Order appears to contain only two slight changes:

1. A slight, inconsequential change in wording (page 2, paragraph 2, of the 8½" x 11" size version);

2. A correction date in the filing

date of Petitioner's Notice of Appeal, which was brought to its attention in the Petition for Rehearing (second paragraph, page 6, 8½" x 11" size version).

The initial order is not presented in this Appendix, in the interest of brevity. A copy of the Modified Order follows.

Appendix (2)

C O P Y

Second Division
February 5, 1991

1-89-1152; 1-89-2068;
1-90-0536; 1-90-1911; Cons.

IN THE APPELLATE COURT OF ILLINOIS,
FIRST JUDICIAL DISTRICT.

IN RE THE MARRIAGE OF	)	Appeal from the
	)	Circuit Court of
KURT ROSENBAUM,	)	Cook County.
	)	
Petitioner, Counter-	)	
Defendant, Appellee,	)	No. 81 D 22050
	)	
and	)	
	)	Honorable
JEAN ROSENBAUM,	)	Julia Nowicki
	)	and
Respondent, Counter-	)	Irwin Solganick,
Plaintiff, Appellant,	)	Judges
acting Pro Se.	)	Presiding.

MODIFIED ORDER UPON DENIAL OF PETITION FOR REHEARING.

Respondent-appellant, Jean Rosenbaum (Jean), appeals from adverse rulings by the circuit court pursuant to post-judgment motions following a 1983 order dissolving her marriage to petitioner-appellee, Kurt Rosenbaum (Kurt). This consolidated appeal presents numerous

issues regarding the propriety of the circuit court rulings.

BACKGROUND:

In the late 1960s, Kurt filed a petition for dissolution of the marriage on the grounds of mental cruelty, which was denied. In 1971, his second petition for dissolution was granted. Jean appealed, and this court reversed in Rosenbaum v. Rosenbaum (1976), 38 Ill. App. 3d 1, 349 N.E. 2d 73.

Kurt's third petition for dissolution, filed in 1981, was granted by the circuit court on December 12, 1983, by order entered December 19, 1983 (the 1983 dissolution) and was affirmed on appeal on March 5, 1985. In re Marriage of Rosenbaum (1st Dist. 1985), No. 84-489 (unpublished order under Supreme Court Rule 23.

On June 30, 1986, Jean brought a

section 2-1401 petition (the 1986 petition) (Ill. Rev. Stat. 1985, ch. 110, par. 2-1401) seeking to set aside the 1983 judgment of dissolution. As grounds for the 1986 petition, Jean asserted the theft of her sterling silver flatware; the possession of that flatware by "the most important witness" who testified against Jean in the divorce proceedings; other allegations suggesting the bias of that same witness; fraud and the appearance of bribery of three judges who ruled in the case; Kurt's then recent severe cerebral hemorrhage; and, that the name "Gacy" appeared among the names of Kurt's acquaintances. Jean amended the petition on September 8, 1986, to add the allegations that new law controlled the divorce proceedings, and that Kurt fraudulently concealed assets. It appears that the 1986 petition was denied by the circuit

court on September 23, 1986; this order does not appear in the record.

Jean's appeal of the circuit court's denial of the 1986 petition (in consolidated cases Nos. 86-2428; 86-2933, 86-3319) was dismissed on May 19, 1987. In pertinent part, this court found the consolidated appeals involved matters that were relitigation or reargument of points decided in previous appeals, without basis or relief in law, or without basis in fact. Jean's petition for rehearing was denied June 16, 1987.

Subsequent to this dismissal, Jean filed two petitions for leave to appeal with the Illinois Supreme Court, both of which were denied on October 7, 1987. She next filed a petition for writ of certiorari with the United States Supreme Court on January 2, 1988, which was denied March 21, 1988.

On August 11, 1988, Jean filed a second section 2-1401 petition to vacate the 1983 judgment of dissolution (the 1988 petition), which is the subject of the instant appeal. The 1988 petition asserts grounds for vacatur different from the earlier 1986 petition which include the following: the applicability of the newer no-fault divorce provisions; estoppel principles based on the 1976 appellate decision; and Kurt's "unusual and bizarre" behavior due to his exposure in 1959 to an atomic cloud during an airplane flight over the Atlantic Ocean. In response, Kurt moved to strike the 1988 petition, urging that it constituted an improper attempt to relitigate issues that had been final for years. On August 23, 1988, the circuit court entered an order granting Kurt's motion to strike and denying Jean's

"comlaint-petition to void judgment."

During the pendency of this 1988 petition, on August 12, 1988, Jean filed a "motion for statement of non-prejudice, or for voluntary disqualification." This motion requested that any judge assigned to the case enter a statement, preferably written, verifying the absence of prejudice for or against either litigant, and if unwilling to do so, that he or she voluntarily disqualify himself or herself from the case. In an order dated August 18, Judge Julia Nowicki noted she verbally expressed her lack of prejudice toward either litigant.

On September 19, Jean brought a motion to vacate the August 22, 1988 order denying her 1988 petition. She subsequently moved to add a supplemental amendment to her motion to vacate the

August 22 order; this amendment challenged the appellate court's jurisdiction to dismiss the consolidated 1986 appeals without requiring Kurt to file a brief. Jean also filed with the circuit court the following matters: on November 22, 1988, a "motion to void appellate mandate" issued by this court to the circuit court on June 20; on the same date, a "motion for written adjudication on 'abandonment of case by petitioner' issue"; on December 14, 1988, a motion to stay enforcement of the 1983 judgment of dissolution; and, a motion for additional discovery on November 22, 1988.

Jean next filed a petition for rule to show cause on January 17, 1989, requesting the court to direct Kurt to make prompt monthly payments for her maintenance into the Amalgamated Trust & Savings Bank (Amalgamated) and to remit a

missed payment for December 1988. She amended this petition on February 17, withdrawing the allegation of a missed payment, but further requesting the court to enter an order permitting her to withdraw money from the Amalgamated account, since the sum therein exceeded the federally insured cap of $100,000. On February 27, the court ordered Kurt to make the maintenance payments between the first and fifth day of each month.

On March 29, 1989, the circuit court entered a seven-page written order, which (1) denied Jean's "complaint-petition" to void the 1983 judgment, as having been ruled on previously; (2) denied Jean's motion to vacate the August 23, 1988 order; (3) denied Jean's motion to void the appellate mandate; (4) denied Jean's motion for written adjudication of "abandonment"; (5)

allowed Jean to file a supplemental amendment to her motion to vacate the August 23, 1988 order, then denied the motion; (6) denied Jean's motion for additional discovery; (7) denied Jean's motion for a statement of non-prejudice, for the reason that each judge has a duty to comply with the Code of Judicial Conduct which did not require such relief; (8) denied Jean's motion to stay enforcement of the 1983 judgment of dissolution; and (9) disposed of Jean's petition for rule to show cause by (a) determining no current arrearages existed, (b) ordering Kurt to deposit all payments on a certain date each month, (c) denying Jean's request for judicial approval to withdraw funds in that there was no restraint preventing her from doing so, and (d) denying all other requests.

Thereafter, on April 18, 1989, Jean filed a "motion re supersedeas and stay pending appeal," seeking to waive the supersedeas requirement and stay the judgment of dissolution pending appeal. This motion was denied on June 28, 1989.

On April 25, 1989, Jean brought a "motion for altered March 29, 1989 order." This motion challenged several aspects of the March 29 order and requested the ruling on her post-trial motion be placed in a separate order; permission to file interlocutory appeal on certain matters[1]; reconsideration of the denial of additional discovery; correction of "conflicting" orders regarding the trial judge's prejudice;

1/ Jean requested interlocutory appeal on the denials of her motion to void appellate mandate and her motion for written adjudication of abandonment.

and, reconsideration of the disposition on Jean's petition for rule to show cause. In an order dated June 28, 1989, the circuit court denied Jean's motion for an altered March 29, 1989 order.

Jean filed her notice of appeal (No. 89-1152) on April 28, 1989, seeking reversal of the August 23, 1988 order and parts of the order entered March 29, 1989 (numbered 1-5 in third preceding paragraph above). Jean's initial notice of appeal in No. 89-2068 was filed July 28, 1989. This appeal sought reversal of the orders entered March 29, 1989 (numbered 6-9 in third preceding paragraph above) and June 28, 1989, and the June 28 denial of Jean's motion re supersedeas and stay pending appeal.

The 1983 judgment of dissolution provided, in part, that Kurt and Jean were to divide equally the Keystone Fund stock

they held in joint tenancy. On December 6, 1988, Kurt presented a petition for rule to show cause why Jean should not be held in contempt of court, requesting that Jean be ordered to execute the documents necessary for the division of the Keystone stock. Asserting the 1983 judgment was not final and should be voided, Jean asked that Kurt's petition be stricken.

On March 29, 1989, the circuit court struck Jean's motion to dismiss Kurt's petition, and set the matter for status. Pursuant to a hearing held August 18, 1989 (the August 18 order), the circuit court (1) denied Jean's motion to dismiss the petition, (2) held Jean in contempt of court, (3) ordered Jean to execute and sign all documents necessary for the Keystone stock division by September 15, 1989, and (4) set the

matter for a status hearing on September 22, 1989.

Jean then filed an amended notice of appeal on August 25, 1989, in No. 89-2068, reasserting the grounds set forth in the original notice of appeal and adding another paragraph (paragraph 3) which requested relief from the August 18 order. On August 30, Jean filed in the appellate court a "motion re stay of proceedings and supersedeas, pursuant to filing amended notice of appeal," asserting that the circuit court no longer had jurisdiction over the case.

On September 19, 1989, the appellate court ordered Jean and Kurt to submit affidavits with supporting documentation as to the value of the Keystone shares. The circuit court, being advised of Jean's motion to stay proceedings then pending in the appellate court, continued

the matter to October 20, 1989 for status. Kurt also had indicated he would ask the appellate court to clarify the circuit court's jurisdiction to enforce the August 18 order. Accordingly, on October 4, 1989, he filed a motion to strike Jean's amended notice of appeal as it related to the August 18 order. He suggested the August 18 order, which in part held Jean in contempt, was not final and reviewable, and therefore should be dismissed. Meanwhile, Kurt and Jean each filed affidavits in appellate court, as ordered, providing the value of the Keystone stock.

On October 10, 1989, the appellate court granted Jean's motion to stay proceedings provided she posted a $50,000 supersedeas bond before October 24. One week later, on October 17, 1989, the appellate court ordered

paragraph 3 of the amended notice of appeal stricken.

Jean filed a second motion to stay proceedings on October 19, 1989. The circuit court, on October 20, was advised of the October 10 appellate order granting the stay provided a supersedeas bond was posted. Consequently, it delayed enforcement of the August 18 order and set a new status hearing date for November 1, 1989.

At the November 1 hearing in the circuit court, Kurt informed the judge that Jean had failed to post the supersedeas bond by October 24. The judge indicated that Jean would be arrested and imprisoned if she did not immediately sign the document for the division of the Keystone stock; consequently, Jean signed the document. On November 3, in the appellate court,

Jean filed an emergency motion for a nunc pro tunc order predating the November 1 order of the circuit court, requesting her second motion to stay proceedings be granted. On November 7, 1989, the appellate court denied the emergency motion as well as Jean's second motion to stay proceedings. Kurt subsequently filed a fee petition relating to the contempt proceeding, and Jean filed a motion to vacate Judge Nowicki's contempt order.

At the hearing on Kurt's fee petition on January 26, 1990, Judge Solganick entered an order awarding attorney's fees to Kurt's counsel, based on Judge Nowicki's prior contempt order.[2]

2/ The court further denied Jean's motions (1) for award of reasonable expenses and costs; (2) regarding jurisdiction for a continuance and motion to add amendment to it; (3) regarding the wedding of the parties' daughter; (4)

On February 13, 1990, the court heard argument on Jean's motion to vacate the January 26 order. The order was modified to reflect that Kurt was to deliver a life insurance policy to Jean by March 1. The court denied Jean's motion to put the Keystone stock under court control.

On February 20, 1990, Jean filed yet another notice of appeal (No. 90-0536), challenging (1) the contempt order of August 18, 1989; (2) the order of November 1, 1989, in which the contempt proceedings were concluded; (3) the order of January 26, 1990 requiring Jean to deliver all original Keystone stock to Kurt's attorney; (4) all portions of the January 26 order approving fees for

---

to vacate portions of Judge Nowicki's order of November 1, 1989 and subsequent motion to add amendment thereto; (5) for enforcement of prior appellate opinion allowing Jean costs; and (6) for continuance regarding Keystone stock.

Kurt's attorney in the amount of $2,667.50; (5) portions of the three page order entered January 26, 1990, denying (a) Jean's motion for award of expenses and costs, (b) Jean's motion regarding continuance and denial of motion to add an amendment thereto, (c) Jean's motion regarding the wedding of her daughter, (d) Jean's motion to vacate portions of Judge Nowicki's November 1, 1989 order, (e) Jean's motion for enforcement of the appellate opinion allowing costs incurred in prior appeal, and (f) Jean's new motion for continuance regarding the Keystone stock; (6) that part of the order entered February 13, 1990 denying Jean's post-judgment motion to vacate specified portions of the January 26 order, and (7) the order entered February 20, 1990 relating to supersedeas and stay denying Jean's new

motion to place Keystone stock under court control.

On February 15, 1990, Kurt filed an amendment to his amended petition of January 2, 1990 for attorney's fees, seeking additional fees for the period of November 8, 1989 through January 31, 1990. The amendment was based on legal fees stemming from Jean's continued contempt of court proceedings.

Jean next filed an emergency motion to prevent disposition of the Keystone stock until finalization of all issues in the case. At the hearing on this motion, the circuit court refused to consider the matter, stating that it was not an emergency and that Jean failed to comply with circuit court rules. Jean withdrew the motion, and she refiled it on February 28, 1990 under normal motion procedure. Attached to the motion were exhibits and an affidavit in which Jean

alleged that Kurt had made prior attempts to hide or divert assets. In an order dated March 6, 1990, the court denied the motion to freeze the stock. Jean thereafter filed a timely motion to vacate the March 6 order.

On March 1, 1990, Jean had subpoenas served on Kurt and her son, Richard, demanding their court appearance and production of specified documents. The subpoenas were stricken, and amended subpoenas served personally. The Cook County Sheriff's office reported delivery to Richard on May 25, 1990; Kurt's whereabouts were unknown. Jean then attempted service on Kurt by registered mail, which was apparently accomplished on May 21, 1990. Kurt filed a motion to strike or limit the subpoena as to himself and a motion to quash the amended subpoena as to himself and Richard.

Jean filed a response.

On March 2, 1990, Kurt filed a new petition for attorney's fees relating to the time spent in answering Jean's "emergency motion." On May 14, 1990, Kurt filed both a "motion" asking that the court terminate the Amalgamated account and allow him to make his payments directly to Jean as opposed to making payment via the clerk of the court, and a petition for rule to show cause why Jean should not be held in comtempt of court for violation of a prior restraining her from harassing Kurt during his visits to a friend in Glencoe. Asserting that the prior order only enjoined her from seeing Kurt at his office complex, Jean denied all allegations and demanded fees pursuant to section 2-611 of the Code. Kurt then filed a motion for sanctions pursuant to Supreme Court Rule 137 for

Jean's improper factual and legal positions taken in the prior pleadings. On May 31, 1990, Jean filed a petition for rule to show cause as to why Kurt missed his April 1990 payment of $229.60.

The court considered all of the aforementioned petitions and motions in a hearing on June 4, 1990. After listening to evidence on Kurt's fee petition relating to the November contempt of court order, the court reduced the amount of fees sought from $1,528.65 to $1,320.40 and entered judgment in Kurt's favor; however, the court denied Kurt's fees for matters relating to Jean's emergency motion to place the Keystone stock under court control. The court further (1) denied Jean's petition for fees; (2) granted Kurt's motions to (a) strike or limit his subpoena and (b) quash the amended subpoena as to Richard; (3)

denied Kurt's petition for rule to show cause; (4) denied Jean's petition for rule to show cause, but required Kurt to make payments to the Amalgamated account; and (5) denied Kurt's motion to terminate the account.

Jean thereafter filed a motion pursuant to sections 2-1203 and 2-1204 of the Code, seeking vacatur of portions of the June 4 order relating to the award of attorney's fees and items 2 and 4 of the above paragraph. The motion also sought modification of the order so that it would correct a date. Jean subsequently moved to add an amendment to the motion to vacate which sought to pursue the previously stricken and quashed subpoenas on Kurt and Richard.

In an order dated June 26, 1990, the court (1) denied Jean's motion to amend the post-trial motion as well as her

motion to vacate portions of the June 4 order; (2) modified the order to reflect the correct date; and (3) ordered that neither party could dispose of the Keystone stock without prior court approval.

Jean filed a notice of appeal (No. 90-1911) challenging (1) the court's order of March 6 which denied Jean's motion to freeze the Keystone stock; (2) portions of the order entered June 4, 1990, which awarded attorney's fees to Kurt, struck, limited and quashed Jean's subpoenas and denied her motion to vacate the March 6 order; and (3) the order of June 26 which denied both Jean's motion to amend her post-trial motion and her post-trial motion for vacatur.

All four appeals were consolidated sua sponte on December 4, 1990.

ORDER:

I.

Initially, Jean asserts that this Court lacked jurisdiction to dismiss her preceding appeals (Cons. Nos. 86-2428, 86-2933, and 86-3319) because the court did not require Kurt to file a brief, which in turn deprived Jean of her right to engage in oral argument and to file both a reply brief and a petition for rehearing. As a result, she urges that this court's order of May 19, 1987 be vacated because it is a "void" order.

In First Capitol Mortgage Corp. v. Talandis Construction Corp. (1976), 63 Ill. 2d 128, 345 N.E. 2d 493, the Illinois Supreme Court held that reviewing courts may decide appeals without the aid of an appellee's brief, provided the record is simple and the claimed errors are such that can easily be

decided. (See also In re Marriage of Pott (1989), 186 Ill. App. 3d 273, 275, 542 N.E. 2d 179.) Moreover the appellate court is prohibited to reverse, pro forma, a circuit court's judgment merely because the appellee failed to file a brief. (Talandis; Hooks v. Bonner (1989), 187 Ill. App. 3d 944, 946, 543 N.E. 2d 953.) As the foregoing demonstrates, this court was authorized to dismiss the appeals without an appellee's brief.

Jean, however, maintains that People v. Barker (1974), 59 Ill. 2d 201, 319 N.E. 2d 810 mandates decision of an appeal with both briefing and oral argument. Barker is factually distinguishable from the instant case. There, the appellate court decided the appeal after the record was filed, but before either party filed briefs and without oral argument. The supreme court ruled that such

summary disposition was improper. (People v. Barker, 59 Ill. 2d at 203-04.) The same is not true here since Jean filed a brief, which presented her arguments to the court. Jean also alleges that she was deprived of her right to oral argument; however, there is no rule, statute or constitutional provision which creates a right to oral argument. (Duldulao v. St. Mary of Nazareth Hospital (1987), 115 Ill. 2d 482, 494, 505 N.E. 2d 314. See also 107 Ill. 2d R. 352(a) (court may dispose of any case without oral argument).) As to Jean's argument that she was deprived of her right to a petition for rehearing, the record reveals that she indeed filed a petition for rehearing and that it was subsequently denied.

Since all pertinent law was followed in deciding the preceding appeals, this court's order of May 19, 1987 is not void.

II.

Jean next argues that Kurt "abandoned" his case by failing to file an appearance or any other document in the U. S. Supreme Court in response to her filings in that court. According to Jean, she filed a "jurisdictional statement" in the U. S. Supreme Court. In its dismissal, the Supreme Court treated "the papers whereon the appeal was taken as a petition for writ of certiorari" and denied certiorari. Rosenbaum v. Rosenbaum (1988), 485 U.S. 950, 99 L. Ed. 2d 410, 108 S. Ct. 1208, application denied, 485 U.S. 1031, 99 L. Ed. 2d 906, 108 S. Ct. 1592, reh'g. denied, 486 U.S. 1019, 100 L. Ed. 2d 222, 108 S. Ct. 1760.

A brief in opposition to a petition for certiorari may be filed by the respondent. (Sup.Ct. R. 22.4) If none is filed, a brief in opposition will be

requested from a respondent if even a single justice indicates an inclination to vote for certiorari. (2 Fed. Proc., L. Ed. §3:202; Prettyman, Opposing Certiorari in the United States Supreme Court, 61 Va. L. Rev. 197 (1975).) Nothing in the record demonstrates that such a brief was requested.

Jean's reliance upon Supreme Court Rule 10.4 is misplaced, as her's was not "an appeal permitted by law" (Sup. Ct. R. 10.1), but a petition seeking a discretionary appeal. (Sup. Ct. R. 17.1). In light of the U. S. Supreme Court's practice of ordering a response when deemed necessary, we conclude that Kurt did not abandon his case by his failure to file any papers in the U. S. Supreme Court.[3]

3/ Jean's subsequent reliance on new Supreme Court Rule 12.4 (effective

III.

a.

Jean next alleges that the 1983 judgment of dissolution should be vacated because, in the 1985 appeal, this court neglected to apply res judicata principles from the 1976 appeal, wherein the circuit court's finding of provocation was reversed. Jean argues that this lack of provocation was res judicata to Kurt's 1981 petition for dissolution on that issue. In our earlier orders (Rosenbaum v. Rosenbaum (Docket No. 82-1790, Dec. 28, 1982) and Rosenbaum v. Rosenbaum (Docket No. 84-0489, March 5, 1985)), we addressed this same issue. Jean persists in ignoring Kurt's proof of mental

---

January 1, 1990) is also erroneous because the rule does not impose any filing requirement on Kurt. (Sup. Ct. R. 12.4). Moreover, Kurt is still not required to file a brief under the new rules governing review on certiorari. See Sup. Ct. R. 15.5.

cruelty by Jean's subsequent acts which took place after the 1976 litigation. The 1983 dissolution, which took cognizance of her conduct, therefore, is not subject to vacatur on these grounds.

b.

Jean further asserts that this court committed error by not applying the then new no-fault provisions which became effective during the pendency of the 1985 appeal.

The amendment to the Illinois Marriage and Marriage Dissolution Act (IMMDA) (Pub. Act 83-954, eff. July 1, 1984 (amending Ill. Rev. Stat. 1983, ch. 40, par. 401)) in 1984 merely added a no-fault provision to the grounds previously available to a spouse seeking dissolution. The mental cruelty provision was not affected by the amendment. Since Kurt claimed mental cruelty as grounds for

dissolution, the no-fault provisions are inapposite to this case. The 1983 dissolution is not subject to vacatur based on the no-fault language.

IV.

Jean also contends that she has been denied her constitutional right to equal protection, based on the aforementioned alleged errors committed by both the circuit and appellate courts. The record, however, does not reflect any unequal treatment by any court toward either party. As our resolution of the preceding issues reveals, all pertinent law has been applied to the instant case. There are no bases for Jean's claim that she has been denied equal protection.

V.

In appeal No. 89-2068, Jean initially asserts that the circuit court abused its discretion by not entering a stay

or continuance until all matters relating to her attempt to void the 1983 judgment of dissolution had been concluded in the appellate and circuit courts, centering argument upon the claim that this court's 1987 order was void.

In determining whether to stay the latter of two proceedings brought concerning a given controversy, courts must consider several factors including comity, the prevention of multiplicity, vexation, and harassment; and the possible effect of res judicata on the proceedings. (Jam Productions, Ltd. v. Dominick's Finer Foods, Inc. (1983), 120 Ill. App. 3d 8, 11, 458 N.E. 2d 100.) Based on this analysis, the circuit court did not abuse its discretion in denying Jean's motion for a stay since the judgment had been final for several years and the arguments attempted to relitigate matters previously

ruled upon.

VI.

Jean further alleges that the circuit court erred by denying her motion for additional discovery.

Additional discovery requests are reviewed within the ambit of section 2-1003 of the Code of Civil Procedure. (Ill. Rev. Stat. 1987, ch. 110, par. 2-1003.) A court of review will not disturb the circuit court's decision regarding additional discovery absent an abuse of discretion. (See Blackwell v. City National Bank & Trust Co. (1980), 80 Ill. App. 3d 188, 399 N.E. 2d 326.) Given the length, intensity and persistency of the instant litigation, largely projected by Jean, the denial to reopen discovery in 1988, years after the litigation endured and the judgment was rendered, was not an

abuse of discretion, particularly when Jean's argument substantially attempts to relitigate matters previously decided.

VII.

Jean next asserts that the circuit court improperly entered two conflicting orders in response to Jean's motion for a statement of non-prejudice. This argument is conjured from Judge Nowicki's order expressing her non-prejudice on August 18, 1988 and her denial of the motion in the March 29, 1989 order.[4] Jean's subsequent requests for clarification were denied, and she now asserts that this reluctance to clarify shows prejudice on the part of Judge Nowicki.

Supreme Court Rule 63(c) (113 Ill. 2d

4/ In that order Judge Nowicki stated that "each judge has a duty to comply with the Code of Judicial Conduct, and it does not require that the court grant the ruling required."

R. 63(c)), explicates bases for the disqualification of judges from cases. None of the listed reasons are expressly or inferentially implicated in the case at bar. Nothing in the record supports Jean's allegations of prejudice on the part of the circuit court.

VIII.

Jean maintains that a further abuse of discretion occurred upon the circuit court's refusal to grant her an interlocutory appeal pertaining to the void judgment issue before proceeding upon important and related matters.

Interlocutory appeals to which Jean alludes are authorized by Supreme Court Rule 308(a). (107 Ill. 2d R. 308(a).) The determination of whether an interlocutory appeal should be granted turns upon the existence of a substantial ground for difference of opinion and

whether an immediate appeal could materially advance the ultimate termination of the litigation. (Bwing v. Liberty Mutual Insurance Co. (1985), 130 Ill. App. 3d 716, 474 N.E. 2d 949.) The rule governing application for interlocutory appeals is strictly construed and sparingly exercised. People v. Pollution Control Board (1984), 129 Ill. App. 3d 958, 473 N.E. 2d 452.) No substantial grounds existed here for a difference of opinion that the 1987 mandate was void. An interlocutory appeal under these circumstances would not have advanced the ultimate termination of the litigation and its denial was not error.

IX.

Jean's final argument in appeal No. 89-2068 is that her constitutional rights to both due process and equal protection of law were violated by the

circuit court because the court refused to enter an order allowing her to transfer funds from the Amalgamated account. The 1983 dissolution order provided, inter alia, that the Amalgamated account was to be divided equally between the parties. On January 24, 1984, Judge Ryan ordered that the account not be released to either party "except by proper Court Order in the future." (Emphasis supplied.) The record contains statements from Amalgamated regarding the account, which show a balance of over $100,000. Judge Nowicki denied Jean a request for approval to withdraw funds because "there is no restraint on her from doing so." No order rescinding Judge Ryan's order of January 4 appears. Jean should have been given approval to withdraw her share of the account as allocated to her by the 1983 dissolution

order. Accordingly, the cause must be remanded to the circuit court for consideration of the effect of and possible modification of Judge Ryan's order upon the ultimate enforcement of the 1983 decree.

Jean also asserts that "other" violations occurred. No specific instances in the record are identified showing where these "violations" occurred, and no authority is cited for her claim. A thorough review of the record demonstrates that Jean was afforded all her constitutional rights such as notice and right to be heard. The due process clause is triggered only when there is deprivation of life, liberty, or property. Beerly v. Department of Treasury (7th Cir. 1985), 768 F. 2d 942, cert. denied (1986), 475 U.S. U.S. 1010, 89 L. Ed. 2d 301, 106 S. Ct. 1184.

X.

In appeal No. 90-0536, Jean initially asserts that the circuit court abused its discretion by enforcing a non-final judgment of dissolution, citing In re Marriage of Leopando (1983), 96 Ill. 2d 114, 119, 449 N.E. 2d 137.

Unlike Leopando, the present case, the judgment of which dissolved the parties' marriage, allocated attorney fees between Kurt and Jean, provided for the disposition of the marital home, and divided the parties personal property, leaving no issues for future resolution. Moreover, the 1983 judgment was affirmed by this court and denied appeal by both the U. S. and Illinois Supreme Courts. Accordingly, there was no reason why the circuit court should not have attempted to enforce the judgment.

XI.

a.

Jean next asserts that the circuit court lacked jurisdiction to enter the contempt order because it did not make a specific finding of willfulness.

Contempt proceedings can be utilized to enforce divorce decree terms. (In re Marriage of Wassom (1988), 165 Ill. App. 3d 1076, 519 N.E. 2d 1147, appeal denied sub nom Wassom v. Diehl, 122 Ill. 2d 595, 530 N.E. 2d 267; In re Marriage of Ramos (1984), 126 Ill. App. 3d 391, 466 N.E. 2d 1016, cert. denied sub nom Ramos v. Ramos (1985), 471 U.S. 1017, 85 L. Ed. 2d 305, 105 S. Ct. 2023.) Jean contends that Illinois law requires a specific finding that her conduct was without cause or justification, citing Janov v. Janov (1965), 60 Ill. App. 2d 11, 14-15, 207 N.E. 2d 691.

A key prerequisite to a contempt finding is the willfulness of the contemptuous conduct; willfulness, used in this context, connotes conduct without cause or justification. (In re Marriage of Stanley (1985), 133 Ill. App. 3d 963, 479 N.E. 2d 1152.) A contempt finding implicating IMMDA proceedings "carries with it an implicit finding that failure to *** (comply with previous court orders) are without cause or justification." (Emphasis added.) In re Marriage of Betts (1987), 155 Ill. App. 3d 85, 105, 507 N.E. 2d 912. See also In re Marriage of Cierny (1989), 187 Ill. App. 3d 334, 348, 543 N.E. 2d 201. Bulmer v. Bulmer (1975), 28 Ill. App. 3d 406, 410, 328 N.E. 2d 622.

In In re Marriage of Betts, 155 Ill. App. 3d 85, the appellate court reviewed a contempt order in light of similar

appellate allegations that it was void and fatally defective because it was not in writing. Noting that the purpose of requiring that facts constituting contempt be set forth with specificity is to ensure a basis for appellate review, the court upheld the order based on facts found in the record including the petition for rule to show cause, the report of proceedings and the oral findings of the circuit court. Here, the record contains Kurt's petition for rule to show cause, Jean's response to the petition asserting the reason for her noncompliance, the transcripts of the proceedings and the oral findings of the court. We also note that Jean was given the means whereby she could purge herself, a significant factor. (See In re Marriage of Logston (1984), 103 Ill. 2d 266, 289, 469 N.E. 2d 167.) Upon this record, the circuit

court's order of contempt was proper.

Jean also argues that the court abused its discretion in holding her in contempt of court. Whether and on what grounds a party is guilty of contempt, and the decision whether or not to punish a contemnor, rests within the sound discretion of the circuit court, whose decision should not be reversed unless grossly abused. (Board of Junior College District No. 508 v. Cook County Teachers Union, Local 1600 (1970), 126 Ill. App. 2d 418, 262 N.E. 2d 125, cert. denied (1971), 402 U.S. 998, 29 L. Ed. 2d 165, 91 S. Ct. 2168; In re Marriage of Houston (1986), 150 Ill. App. 3d 608, 501 N.E. 2d 1015; In re Marriage of Wassom.) Jean maintains that the only reason she did not comply with the circuit court's order was that she believed the 1983 dissolution was

void as a matter of law. Her belief, she erroneously argues, negates any willful behavior. "The absence of willfulness does not relieve from civil contempt. *** An act does not cease to be a violation of the law and of a decree merely because it may have been done innocently." County of Cook v. Lloyd A. Fry Roofing Co. (1974), 59 Ill. 2d 131, 137, 319 N.E. 2d 472, quoting McComb v. Jacksonville Paper Co. (1949), 336 U.S. 187, 191, 93 L. Ed. 599, 604, 69 S. Ct. 497, 499.

At bar, the circuit court found that no stays were issued which affected the enforceability of the judgment, which had been affirmed on both direct and collateral appeal. Accordingly, it entered a finding of contempt on August 18, but stayed sanctions and gave Jean 14 days in which to comply with the order. Jean had still not

complied with the order on November 1, 1989, and at that point, Judge Nowicki sentenced her to an indeterminate period of incareration to start that morning until the document was signed. The record clearly establishes that Jean willfully refused to comply with the circuit court's order to sign the Keystone stock certificate. There was no abuse of discretion.

b.

Jean additionally maintains that the court did not give her the opportunity to purge herself of the contempt before the imposition of a sentence. To the contrary, the record shows that the court gave Jean the chance to purge herself prior to sentencing, i. e., the 14 days before sanctions were entered. The circuit court also continued the matter twice before entering the

sanctions. Although Jean had more than two months to comply with the court's order and purge herself of the contempt holding, she chose not to avail herself of those opportunities. The circuit court acted within its power in sentencing Jean to imprisonment in order to compel compliance. This court will not disturb that finding.

XII.

Jean also urges error in the circuit court's award of fees to Kurt's attorney for services relating to the contempt proceedings.

A party who must resort to the judicial process to secure compliance with the terms of a divorce judgment is entitled to reasonable attorney fees. (Ill. Rev. Stat. 1987, ch. 40, par. 508(b)); In re Marriage of Moriarty (1985), 132 Ill. App. 3d 895, 478 N.E.

2d 537.) The circuit court, in exercising its discretion, may consider the circumstances prompting the litigation and may also consider whether a party has delayed the litigation. (In re Marriage of Cotton (1984), 103 Ill. 2d 346, 469 N.E. 2d 1077; In re Marriage of Brand (1984), 123 Ill. App. 3d 1047, 463 N.E. 2d 1037.) When a party must enforce its rights, reasonable attorney's fees will be awarded. (In re Marriage of Moriarty.) Based on the foregoing and the nature of the instant litigation, the circuit court did not abuse its discretion in ordering fees to be awarded to Kurt's counsel.

Jean next alleges that the $2,667.50 awarded as attorney's fees was excessive. We disagree.

In determining the amount to be awarded, courts consider time expended

on the case to be the factor of greatest importance. (In re Marriage of Ransom (1981), 102 Ill. App. 3d 38, 429 N.E. 2d 594.) At bar, the affidavit of Edward Berman sets forth an itemized list of the professional services rendered with separate information relating to fees generated by clerical services. (See In re Marriage of Edelberg (1982), 105 Ill. App. 3d 407, 434 N.E. 2d 440.) Although a mere listing of the hours spent and the rate charged is insufficient to justify an award, oral testimony can be used to prove time and services provided. (In re Marriage of Collins (1987), 154 Ill. App. 3d 655, 506 N.E. 2d 1000.) Here, Berman was questioned extensively by both Jean and the circuit court, and the court made specific findings regarding the fees and hours of work expended. The record demon-

strates that the fees assessed against Jean were fair, reasonable and not excessive.

XIII.

Jean maintains that the circuit court's denial of her section 2-611 petition (Ill. Rev. Stat. 1987, ch. 110, par. 2-611) for costs was error. Despite Jean's assertions to the contrary, the circuit court did not deny her fees because she was pro se, but because her claims lacked merit. Jean further argues that the circuit court did not specifically rule why no sanctions were imposed. Supreme Court Rule 137 requires specificity only "(w)here a sanction is imposed." (See June 28, 1989, Official Reports Advance Sheet No. 13 (eff. August 1, 1989); 134 Ill. 2d R. 137.) Here, specificity is not required because no one was sanctioned. The

record reveals no sanctionable activity within the ambit of section 2-611; the circuit court properly denied Jean's petition.

XIV.

Jean contends that the circuit court erred by requiring her to deliver all Keystone stock certificates to Berman because the 1985 appellate order was void. As discussed above, the 1985 appellate order was valid. The circuit court ordered the stock certificates to be turned over to Berman in an attempt to give effect to the 1983 dissolution decree, a final judgment. The court's action was neither erroneous nor improper.

XV.

Jean further argues that this court's decision in Rosenbaum v. Rosenbaum (1976), 38 Ill. App. 3d 1, 20, 349 N.E.

2d 73 allowed her $800 in costs for both trial and appeal, which she has never claimed "because of the time consuming litigation that continued." She asserts that the circuit court improperly denied her motion to enforce the judgment.

Relying upon section 13-218 of the Code, which provides that a judgment "may be revived *** within 20 years next after the date of such judgment and not after" (Ill. Rev. Stat. 1987, ch. 110, par. 13-218), Jean moved to enforce the 1976 award in 1990. The circuit court, however, denied enforcement based on laches and equitable estoppel. Application of the doctrine of laches is within the sound discretion of the circuit court, and a finding by that court will not be disturbed on review unless the determination is so clearly wrong as to constitute an abuse of discretion.

(In re Marriage of Yakubec (1987), 154 Ill. App. 3d 540, 544, 507 N.E. 2d 117; Ruster v. Ruster (1980), 91 Ill. App. 3d 355, 414 N.E. 2d 927.) In this case, Jean has been in the courts continuously since the 1976 award and could have, at any time, moved for enforcement of the award. Although Jean was within the statutory time frame to revive her judgment, her conduct in not doing so could be viewed as an estoppel. Kurt, however, has not addressed this point in his brief and offered little argument in the circuit court on this issue. Specifically, he has not shown how he was prejudiced by the lapse of time. Since this is an element of the defense (see Yakubec, 154 Ill. App. 3d at 544) and Jean is within the statutory time period, the circuit court abused its discretion by not allowing

Jean to receive her fee award. Its decision on this point is reversed and the cause remanded for entry of an appropriate order.

XVI.

Jean next contends that the circuit court abused its discretion regarding the continuance on the matter of the Keystone stock, claiming that the ends of justice required it and that matters pertaining to the validity of the 1983 judgment were before the appellate court.

The circuit court, here, continued the matter several times before it finally entered the contempt sanctions. These continuances were granted because Jean attempted to appeal the issue directly to this court. Once the court's jurisdiction was established, no further continuances were necessary because the 1983 judgment had been affirmed on

direct appeal and again during Jean's 1986 post-judgment litigation. The circuit court did not abuse its discretion in refusing to continue the matter.

XVII.

Jean next identifies the denial of her motion regarding the litigants' daughter's wedding as an abuse of discretion. This motion sought a court order requiring Kurt to telephone Jean about the wedding plans and arrange for its funding.

The 1983 judgment noted that all the litigants' children had reached their majority. Accordingly, no child support was entered. A parent's obligation for child support continues only until the child reaches majority. (See Wilson v. Wilson (1987) 159 Ill. App. 3d 1091, 1094-95, 513 N.E. 2d 121.) Here, the record established that the daughter was emancipated. As a

result, the court found that there was no legal obligation for Kurt to finance the wedding. The court did not abuse its discretion in denying the motion.

XVIII.

Jean maintains that Kurt failed to comply with the 1983 judgment because she "cannot get a copy" of the life insurance policy awarded to her by the 1983 dissolution decree. On February 13, 1990, the court ordered Kurt to give Jean her copy by March 1, 1990. The record does not indicate whether or not the order was carried out. In the event this has not been fulfilled, an appropriate order should be entered.

XIX.

Jean's final contention is that the circuit court abused its discretion by not putting the Keystone stock under court control. The court suggested

that Jean put the stock in trust pending appeal of all the issues or post it as her bond. Jean cites no law supporting her position, but merely states that the judge should have disqualified himself as a result of his prejudice. Nothing in the record evinces prejudice on the part of the court. The stock was to be split pursuant to the 1983 judgment, which was affirmed on appeal by this court. There was no reason for the court to disregard either order by putting the stock under court control. The court did not abuse its discretion in denying Jean's request.

XX.

In appeal No. 90-1911, Jean challenges the circuit court's allowance of an additional $1,320.40 in attorney's fees, arguing that the contempt order upon which the fees were based was void because it did not contain a finding

that her conduct was without cause or justification. The propriety of the contempt order was upheld above (see supra pp. 22-26); therefore, Jean's reassertion of this argument has no merit.

Jean next claims that the award of $1,320.40 was unreasonable and not supported by the record since she had purged herself of the contempt at a later hearing. As noted above, a party who must seek court enforcement of the terms of a judgment of dissolution is entitled to reasonable attorney's fees, where the failure to comply with the terms of the judgment is without cause or justification. Moreover, it does not matter that the circuit court found Jean had purged herself of the contempt at the later hearing. The policy behind section 508(b) of the IMMDA is to

eliminate or lessen the financial burden that is the consequence of an enforcement action. (See In re Marriage of Wassom, 165 Ill. App. 3d at 1081.) Here, Kurt initially incurred fees in his effort to enforce the dissolution order and continued to incur fees in trying to uphold the contempt order during Jean's various post-contempt proceedings.

Jean further contends that the award violates the law because attorney Berman does not charge a lesser rate for in-office time as opposed to in-court time. The record supports the circuit court's finding that Berman's rate was reasonable. Berman was extensively examined on his petition fees by both Jean and the court. Based on this examination, the court limited the fees by not granting an award for (1) transportation costs and cab fare; (2) several phone calls;

and (3) expenses which, during his testimony, Berman "couldn't recall." The fees assessed against Jean were fair, reasonable and not excessive.

Jean also contends that the criteria for attorney's fees found in the Criminal Code (Ill. Rev. Stat. 1987, ch. 38, par. 113-3.1(b)) are applicable to her and that they represent the maximum amount of attorney's fees that should be assessed against her. This argument has no merit since Jean's contempt was based on non-compliance with an order entered under the IMMDA and not under the Criminal Code.

XXI.

Jean next identifies as errors the circuit court's striking of her subpoena to Kurt and the court's quashing of her subpoena to Richard.

Jean issued the subpoenas in order to

defend against Kurt's petition for Berman's fees. In Kurt's subpoena, Jean asked that he bring "all contracts or agreements" made with Berman, "all bills" received from him and all income tax returns showing deductions for legal expenses. Richard's subpoena demanded similar documentation. During the hearing on the fee petition, the court gave Jean the opportunity to testify and put on her case. Although Kurt was present in court, Jean did not call him until the middle of her closing argument. Nonetheless, on hearing both the motions to strike and to quash, the court noted that there were no motions before the court which questioned Kurt's financial ability, income or expenses; consequently, it struck the subpoena as overly broad. The same ruling was made as to Richard's subpoena.

As noted above, Jean's subpoenas sought all bills and contracts entered into by Kurt and Berman. In this case, which stretched over many years, the court properly found that such a request was overly broad. Richard, now involved in continued litigation with Jean, was also asked to bring such documents. The circuit court did not abuse its discretion in striking and quashing the subpoenas.

XXII.

Jean's next argument centers on the court's refusal to freeze the Keystone stock at her first request. It is unclear from Jean's brief what relief she now seeks from this court. Since the circuit court ultimately entered an order which requires prior court approval before either party can dispose of the assets, Jean's contention is moot.

Jean also argues that the circuit court abused its discretion and exhibited prejudice against her by denying her leave to add an amendment to her post-judgment motion related to the June 4 order.

Jean's proposed amendment sought leave of court to pursue discovery of Kurt and Richard pursuant to the previously stricken and quashed subpoenas. The court denied the motion, noting that Jean "was a little late for discovery."

The circuit court has broad discretion in ruling on discovery matters, and its orders concerning discovery will not be interfered with on appeal absent a manifest abuse of such discretion. (Hanes v. Orr & Associates (1977), 53 Ill. App. 3d 72, 74, 368 N.E. 2d 584.) Here the evidentiary aspect of the fee petition was closed and the

award was before the court only on a motion to reconsider. The court did not abuse its discretion by denying Jean's proposed amendment to the post-judgment motion.

Based on the foregoing, we affirm the circuit court's order in appeal No. 89-1152. In appeal No. 89-2068, the order of the circuit court is affirmed in part, reversed in part and remanded to the circuit court for consideration of Judge Ryan's 1984 order concerning the Amalgamated account. In appeal No. 90-0536, the order of the circuit court is affirmed in part and reversed as to the court's denial of Jean's motion to enforce the 1976 award of $800 in fees. Finally in appeal No. 90-1911, the orders of the circuit court are affirmed.

HARTMAN, J., with SCARIANO, P.J., and DIVITO, J., concurring.

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	)	
	)	C O P Y
KURT ROSENBAUM,	)	
	)	
Petitioner, Counter-Defendant, Appellee,	)	
	)	
and	)	NO. 89-1152
	)	
JEAN ROSENBAUM,	)	
	)	Order Entered
Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	)	May 3, 1989.

ORDER

This cause coming on to be heard this day upon the MOTION FOR STATEMENT OF NON-PREJUDICE, OR FOR VOLUNTARY DISQUALIFICATION, presented by JEAN ROSENBAUM, Respondent, Counter-Plaintiff, Appellant, acting Pro Se, and the Court having read argument and been advised in the premises; IT IS HEREBY ORDERED:

THE MOTION FOR STATEMENT OF NON-PREJUDICE, OR FOR VOLUNTARY DISQUALIFICATION is Allowed: ____ Denied: x

(Signed) Justices Hartman, DiVito, and Scariano.

IN THE APPELIATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	)	
	)	
KURT ROSENBAUM,	)	
	)	C O P Y
Petitioner, Counter-Defendant, Appellee,	)	
	)	
and	)	NO. 89-1152
	)	
JEAN ROSENBAUM,	)	
	)	Order Entered
Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	)	June 6, 1989.

ORDER

This cause coming on to be heard this day on the PETITION FOR CHANGE OF PANEL presented to the Court by JEAN ROSENBAUM, Respondent, Counter-Plaintiff, Appellant, acting Pro Se, and the Court having read argument and been advised in the premises; IT IS HEREBY ORDERED:

The PETITION FOR CHANGE OF PANEL is

Allowed:____ Denied: x

Justice Allen Hartman
Justice Gino DiVito
Justice Anthony Scariano

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF KURT ROSENBAUM, Petitioner, Counter-Defendant, Appellee, and JEAN ROSENBAUM, Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	C O P Y NO. 89-2068 Order Entered October 10, 1989.

ORDER

This cause coming on to be heard this day upon the MOTION RE STAY OF PROCEEDINGS AND SUPERSEDEAS, PURSUANT TO FILING "AMENDED NOTICE OF APPEAL" with SUGGESTIONS and AFFIDAVIT in support thereof, presented by JEAN ROSENBAUM, Appellant, acting Pro Se, and the Court having read argument and been advised in the premises; IT IS HEREBY ORDERED:

A stay of enforcement of Judgment is granted to and including FURTHER ORDER

upon filing a bond in the amount of $50,000.00, by October 24, 1989.

Allowed: x Denied: ____

Justice Allen Hartman

Justice Gino DiVito

Justice Anthony Scariano

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	)	
	)	
KURT ROSENBEM,	)	
	)	C O P Y
Petitioner, Counter-Defendant, Appellee,	)	
	)	NO. 89-1152,
and	)	
	)	NO. 89-2068.
JEAN ROSENBAUM,	)	
	)	
Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	)	Order Entered October 17, 1989.

ORDER

THIS CAUSE coming on upon motion of Kurt Rosenbaum, petitioner-appellee, to dismiss Amended Notice of Appeal, due notice having been served and the Court being fully advised,

IT IS ORDERED that paragraph 3 of respondent-appellant's Amended Notice of Appeal from the order of contempt entered August 18, 1989, filed August 25, 1989, is stricken.

Justice Allen Hartman
Justice Anthony Scariano
Justice Gino DiVito

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	)	
	)	C O P Y
KURT ROSENBAUM,	)	
	)	
Petitioner, Counter-Defendant, Appellee,	)	Consolidation
	)	
and	)	of Nos. 89-1152,
	)	
JEAN ROSENBAUM,	)	89-2068.
	)	
Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	)	Order Entered November 7, 1989.

ORDER

This cause coming on to be heard this day on the 2ND MOTION RE STAY AND SUPERSEDEAS, PURSUANT TO COURT ORDER ENTERED OCTOBER 10, 1989, presented by JEAN ROSENBAUM, Appellant, acting Pro Se, and the Court having read argument and been advised in the premises:

IT IS HEREBY ORDERED:

1. Appellant is granted a further continuance to and including ------ to secure and/or fulfill the superse-

deas or any related requirement, and receive a stay of proceedings.

Allowed: ____ Denied: x

2. A Prehearing Conference is set for ---------- to solve the supersedeas "bottleneck," and problem.

Allowed: ____ Denied: x

Justice Allen Hartman

Justice Anthony Scariano

Justice Gino DiVito

C O P Y

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	)	C O P Y
	)	
KURT ROSENBAUM,	)	Consolidation
	)	
Petitioner, Counter-Defendant, Appellee,	)	of Appeals Nos.
	)	89-1152; 89-2068;
and	)	
	)	90-536; 90-1911.
JEAN ROSENBAUM,	)	
	)	
Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	)	Order Entered
	)	January 23, 1991.

ORDER

This cause coming on to be heard this day on the MOTION FOR PUBLISHED OPINION presented by JEAN ROSENBAUM, Respondent, Counter-Plaintiff, Appellant, acting Pro Se, and the Court having read argument and been advised in the premises;

IT IS ORDERED:

The MOTION FOR PUBLISHED OPINION is hereby

Allowed ____ Denied x

Justice Anthony Scariano
Justice Allen Hartman
Justice Gino DiVito

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	C O P Y
KURT ROSENBAUM,	Consolidation of
Petitioner, Counter-Defendant, Appellee,	Appeals Nos.
and	89-1152; 89-2068;
JEAN POSENBAUM,	90-536; 90-1911.
Respondent, Counter-Plaintiff, Appellant, acting Pro Se.	Order Entered February 22, 1991.

ORDER

This cause coming on to be heard this day on the APPLICATION FOR CERTIFICATE OF IMPORTANCE presented by JEAN ROSENBAUM, Respondent, Counter-Plaintiff, Appellant, acting Pro Se, and the Court having read argument and been advised in the premises; IT IS HEREBY ORDERED:

The APPLICATION FOR CERTIFICATE OF IMPORTANCE pending appeal to the Supreme Court of Illinois, is

Allowed: ____ Denied: x

Justices Scariano, Hartman, DiVito.

C O P Y ILLINOIS SUPREME COURT

Juleann Hornyak, Clerk
Supreme Court Building
Springfield, Ill. 62706
(217) 782-2035

June 5, 1991

Ms. Jean Rosenbaum
1354 W. Greenleaf St.
Chicago, IL. 60626

No. 71520-Kurt Rosenbaum, respondent, v. Jean Rosenbaum, petitioner. Leave to Appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this court will issue to the Appellate Court on June 27, 1991.

C O P Y

ILLINOIS SUPREME COURT

Juleann Hornyak, Clerk
Supreme Court Building
Springfield, Ill. 62706
(217) 782-2035

June 18, 1991

Ms. Jean Rosenbaum
1354 W. Greenleaf Street
Chicago, IL 60626

THE COURT HAS TODAY ENTERED THE FOLLOWING ORDER IN THE CASE OF:

No. 71520-Kurt Rosenbaum, respondent,

v. Jean Rosenbaum, petitioner.

The motion by the petitioner for stay of mandate pending the filing and disposition of writ of certiorari in the United States Supreme Court and for certain other relief is allowed in part. The request for stay of trial court and Appellate Court judgments is denied.

A copy of the order is enclosed.

cc Edward A. Berman

COPY

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

KURT ROSENBAUM) NO. 81 D 22050
)
v.) Order entered
)
JEAN ROSENBAUM) August 18, 1989.

ORDER C O P Y

This cause coming upon petition for rule to show cause of Kurt Rosenbaum, the three answers of respondent, the court having heard arguments and testimony, and having jurisdiction of the parties and the subject matter, and being fully advised,

It is ordered that respondent's motion to dismiss the petition for rule to show cause is denied.

It is further ordered that Jean Rosenbaum, respondent, is held in contempt of court.

It is further ordered that petitioner shall have the documents necessary for transfer of the Keystone stock

by September 8, 1989; respondent shall execute and sign the documents by September 15, 1989, so that the judgment of this court will be complied with, and this cause is set for status on September 22, 1989, at 9:30 AM before Judge Nowicki.

ENTERED: August 18, 1989

JUDGE JULIA NOWICKI

C O P Y

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

KURT ROSENBAUM	)	NO. 81 D 22050
	)	
v.	)	Order entered
	)	
JEAN ROSENBAUM	)	September 29, 1989.

ORDER

This cause coming on upon the continued status call and motions of respondent, and the court being advised that petitioner will move in the appellate court to clarify the court's jurisdiction to enforce the order of August 18, 1989, and the court having heard arguments and being advised,

It is ordered that this cause is continued to October 20, 1989, at 9:30 AM for status, and the court declines to exercise jurisdiction over the other motions of respondent, which belong in front of another Judge of this Court. -- Judge NOWICKI

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

IN RE THE MARRIAGE OF	)	
	)	NO. 81 D 22959
KURT ROSENBAUM,	)	
	)	
v.	)	Order entered
	)	
JEAN ROSENBAUM.	)	November 1, 1989.

ORDER C O P Y

This cause coming on upon order of contempt entered August 18, 1989, the court having examined the pleadings submitted and the order of the Appellate Court in 89-2068 and 89-1152 entered 10/10/89 and 10/17/89, and finding it has jurisdiction of the parties and the subject matter, and being fully advised,

It is ordered that Jean Rosenbaum is sentenced to an indeterminate jail term for her contempt, that Jean Rosenbaum has signed the tendered stock power in open court and is purged of her contempt, that Jean

Rosenbaum will, if necessary, have her signature guaranteed by a Bank on the stock power; petitioner may file his petition for attorney's fees and expenses within 28 days, respondent may answer within 21 days thereafter, and the petition for fees is set for status on Judge Gardner's call on January 4, 1990, at 9:30 AM. The oral motion of Jean Rosenbaum to place her share under court control is denied. The signing by Jean Rosenbaum of the stock power, K.R. Ex. 1, is a purge of the contempt.

Signed:

JUDGE JULIA NOWICKI

November 1, 1989

C O P Y

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

IN RE MARRIAGE OF	)	
	)	NO. 81 D 22050
KURT ROSENBAUM	)	
	)	
and	)	Order entered
	)	
JEAN ROSENBAUM	)	January 26, 1990.

ORDER C O P Y

This cause coming on upon amended petition for attorney's fees and the response thereto, and the court having heard sworn testimony and being fully advised:

Doth find that the hourly rates and the time expended are fair and reasonable, in accordance with Illinois law, and particularly Section 508(b) of the Marriage and Dissolution of Marriage Act. IT IS THEREFORE ORDERED that Judgment is entered in favor of Edward A. Berman, P.C., and against respondent, Jean Rosenbaum, in the sum of $2,667.50, and that execution issue thereon. JUDGE IRWIN J. SOLGANICK

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

IN RE MARRIAGE OF	)	
	)	NO. 81 D 22050
KURT ROSENBAUM,	)	
	)	
and	)	Order entered
	)	
JEAN ROSENBAUM.	)	February 13, 1990.

ORDER C O P Y

This cause coming on to be heard this 13th day of February, 1990, on the Post-Judgment Motion to Vacate Specified Portions of Orders Entered January 26, 1990, or Modify Same, of Respondent, JEAN ROSENBAUM, acting Pro Se, and the Court having read argument on all matters therein, and heard argument on most matters, and been advised in the premises;

IT IS HEREBY ORDERED:

The Post-Judgment Motion to Vacate is denied totally with the exception that KURT ROSENBAUM, Petitioner, is

required to deliver to Respondent a copy of the Great West Life Assurance policy, of which Respondent is irrevocable beneficiary, no later than March 1, 1990.

ENTERED: February 13, 1990

JUDGE IRWIN SOLGANICK

C O P Y

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

IN RE THE MARRIAGE OF	)	NO. 81 D-
	)	
KURT ROSENBAUM,	)	22050
	)	
Petitioner,	)	Order
	)	
and	)	Entered
	)	
JEAN ROSENBAUM,	)	February 20,
	)	
Respondent, acting Pro Se	)	1990.

ORDER C O P Y

This cause coming on to be heard this day upon the (1) NEW MOTION TO PLACE KEYSTONE STOCK UNDER COURT CONTROL: AND (2) MOTION RE SUPERSEDEAS, STAY AND CONTINUANCE, FOR THIRD PIECEMEAL APPEAL, presented by JEAN ROSENBAUM, Respondent, acting Pro Se, and the Court having heard argument and been advised in the premises; IT IS HEREBY ORDERED:

1. The NEW MOTION TO PLACE KEYSTONE STOCK UNDER COURT CONTROL is denied;

2. Relating to the MOTION RE SUPER-SEDEAS, etc., upon the posting of stock

certificates with the Clerk of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, Chicago, Illinois, equal to the mount of $2,667.50, the amount of judgment, enforcement of Judgment(s) encompassed by the third piecemeal Notice of Appeal shall be stayed and suspended.

There is no just reason to stay enforcement or appeal of any part of this Order, or any part of any Order previously entered.

ENTERED: February 20, 1990

Judge IRWIN J. SOLGANICK

(NOTE: Jean Rosenbaum posted over the required amount of stock that very day, and the stay was automatically secured.)

C O P Y

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

KURT ROSENBAUM) NO. 81 D 22050
)
v.) Order entered
)
JEAN ROSENBAUM) June 4, 1990. COPY

ORDER - (Pertinent Excerpts Only)

This cause coming on for hearing on various motions and petitions, and the court having heard testimony of witnesses and arguments of counsel and Jean Rosenbaum, Pro Se, and being fully advised:

It is ordered: (1) Petitioner's Amendment to Amended Petition is granted, but the requested fees and expenses reduced so that judgment is entered in favor of petitioner in the sum of $1,320.40, against respondent, and that execution issue thereon; (2) Petitioner's Petition for Attorney's Fees and Expenses is denied; (3) Petitioner's motions to strike and limit subpoenas served or directed to Kurt

Rosenbaum and Richard Rosenbaum are granted, and the subpoenas and amended subpoenas are quashed; (9) Respondent's Post-Judgment Motion to Vacate Specified Portions of Order entered March 6, 1989, is denied.

ENTERED: June 4, 1990

JUDGE IRWIN J. SOLGANICK

C O P Y

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

KURT ROSENBAUM,	)
	) NO. 81 D 22050
Petitioner,	)
	) Order entered
vs.	)
	) June 26, 1990.
JEAN ROSENBAUM,	)
	)
Respondent,	)
acting Pro Se.	) C O P Y

ORDER

This cause coming on upon motions of Jean Rosenbaum, respondent, to present "motion re supersedeas, stay and continuance for fourth piecemeal appeal," "post-judgment (trial) motion to vacate specified portions of order entered June 4, 1990," and "motion for leave to add amendment to post-judgment motion," due notice having been served, and petitioner objecting to the motion re supersedeas, stay and continuance, and the court having heard arguments of counsel and respondent pro se and

being fully advised,

(1) IT IS ORDERED that the motion for leave to add amendment to Post-Trial Motion is denied;

(2) FURTHER ORDERED the Post-Judgment (Trial) Motion is denied;

(3) IT IS FURTHER ORDERED that the motion to vacate specified portions of order entered June 4, 1990 be and is denied, except as provided in paragraph (5) below;

(4) IT IS FURTHER ORDERED that the money judgment appealed from is stayed, and that the stock previously filed with the Clerk of the Court in the amount of $2,667.50, as security for a stay in the third piecemeal appeal, shall stand also for said stay of orders entered June 4, 1991 and June 26, 1990, to be appealed, and neither party shall dispose of Keystone stock

without order of court;

(5) FURTHER ORDERED leave is hereby granted to correct the date of March 6, 1989, which appears in this court's order of June 4, 1990, to March 6, 1990.

ENTERED: June 26, 1990

JUDGE IRWIN J. SOLGANICK

C O P Y

(APPEAL TO THE SUPREME COURT OF UNITED STATES, FROM THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT.)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, DOMESTIC RELATIONS DIVISION.

IN RE THE MARRIAGE OF	) NO.81 D 22050
	)
KURT ROSENBAUM,	) (Re: Consoli-
	) dation of
Petitioner (Appellee),	) Appeals Nos.
	) 89-1152; 89-
and	) 2068; 90-536;
	) 90-1911.)
JEAN ROSENBAUM,	)
	) Order entered
Respondent (Appellant),	)
acting Pro Se.	) July 2, 1991.

ORDER C O P Y

This cause coming on to be heard this 2nd day of July, 1991, on the "Motion re Supersedeas and Stay for Appeal to the Supreme Court of United States," presented by Jean Rosenbaum, Respondent, acting Pro Se (Appellant), the "Motion to Implement Mandate of Appellate Court and Conclude Proceedings," presented by Petitioner's Attorney, Edward A. Berman, and Jean Rosenbaum's Answer thereto,

and the Court having heard argument, and been fully advised in the premises;

IT IS HEREBY ORDERED:

(1) The Motion re Supersedeas and Stay for Appeal to the Supreme Court of United States is allowed, and the stock in the sum of $2,770.00 previously posted to meet the $2,667.50 supersedeas set for the lower Court appeals shall also serve as supersedeas to stay all judgments appealed to the Supreme Court of U. S. This stay shall expire if Jean Rosenbaum does not timely-file a Petition for appeal in the U. S. Supreme Court, and a Notice of Appeal (if required) pertaining to that Court.

(2) Attorney Berman's "Motion to Implement Mandate of Appellate Court and Conclude Proceedings" is denied.

Entered: July 2, 1991 COPY

JUDGE IRWIN J. SOLGANICK

depends on the total factual background and is determined primarily by the effect the alleged misconduct has on the complaining party. (*Sharpe v. Sharpe*, 9 Ill. App. 3d 667, 292 N.E.2d 566.) In determining this effect, consideration must be given to the particular emotional and personal makeup of the parties, and the varying circumstances under which any of the incidents occurred that may have given rise to the acts about which complaint is made. *Stanard v. Stanard*, 108 Ill. App. 2d 240, 248, 247 N.E.2d 438.

In the case before us, and after an examination of the record, we are of the opinion that the evidence did not prove mental cruelty as that concept is used in our law of divorce. We are convinced that Dr. Rosenbaum did not prove, in fact, did not allege, lack of provocation. From his testimony, and this is the only evidence on the subject, he left his family without a valid reason. The institution of marriage would not exist in our society if every husband were free to decide for himself that preservation of his sanity, whatever that means, requires that he leave his wife and children.

Moreover, there is no evidence in this case that Dr. Rosenbaum's health, physical or mental, was adversely affected by anything his wife did after he left his family home. To the contrary, he has led a comfortable, enjoyable and steadily improving life, in a style he has pursued to his satisfaction. He has continued in his chosen work. His income has progressively increased. His interests in matters vocational and avocational have not changed or diminished.

It is true that his wife appears to be a difficult woman with whom to live. She is an insistent and persistent individual. For example, in this court she so deluged us with motions and petitions that we found it necessary to order a cessation of these filings. However, we notice that despite her insistence here and in the trial court, she always has been respectful and obedient to the requirements of our rules. From everything she has filed, here and below, there exudes a deep sense of indignation at her husband's desertion of her, his construction of her reactive conduct as mental cruelty, and his success in using that construction to obtain a divorce on terms that deprived her of benefits she claims should be hers after 27 years of marriage.

IN THE APPELLATE COURT OF
ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	)	
	)	Nos. 86-2428)
KURT ROSENBAUM,	)	86-2933)
	)	86-3319
Petitioner-Appellee,	)	
	)	
and	)	(Excerpts only)
	)	
JEAN ROSENBAUM,	)	Order entered
	)	
Respondent-Appellant.	)	May 19, 1987.

ORDER

(2) That part of petitioner-appellee's motion, filed April 15, 1987, to strike and dismiss the consolidated appeals be and hereby is allowed, it appearing to the Court that the points made in said brief: in part are relitigation and reargument of points decided in previous appeals; in part are without basis or relief in law; and in part are without basis in fact or in the record.

(4) Respondent-appellant's motion filed April 21, 1987, requesting that

petitioner-appellee's motion filed April 15, 1987, be stricken and that she be awarded costs and expenses be and the same is hereby denied.

Anthony Scariano, Presiding Justice

John J. Stamos, Justice

Allen Hartman, Justice

Dated: May 19, 1987.[a]

[a]/ Only the pertinent portions of the foregoing Order, which also included other matters, are provided here.

IN THE SUPREME COURT OF ILLINOIS

Kurt Rosenbaum,	)	AC-1-86
	)	AC-1-86-2933
Respondent,	)	AC-1-86-3319
	)	
v.	)	Hon. Daniel J. Ryan
	)	and
Jean Rosenbaum,	)	Hon. Julia Nowicki,
	)	Judges Presiding.
Petitioner.	)	
	)	Order filed
	)	
	)	November 3, 1987.

ORDER

Copy

This matter has come for consideration upon the motion of petitioner, pro se, to stay the mandate of this Court pending appeal or application for certiorari in the United States Supreme Court.

IT IS ORDERED that the mandate of this Court in the above cause is stayed pending the filing of a notice of appeal, or an application for certiorari or the expiration of the period within which said application or notice may be filed. If certiorari is applied for or

notice of appeal filed, the mandate of this court shall, upon proof of such filing being made by affidavit filed with the clerk of this Court, be further stayed pending resolution by the United States Supreme Court of such application or appeal. If no such affidavit is filed, the mandate shall, without order, issue upon the expiration of the time within which appeal or certiorari may be sought.

DANIEL P. WARD,

Justice, Supreme Court of Illinois.

Filed: November 3, 1987,

Chicago, Illinois.

C O P Y

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS COUNTY DEPARTMENT,
DOMESTIC RELATIONS DIVISION.

IN RE THE MARRIAGE OF	NO. 81 D 22050
KURT ROSENBAUM,	Judgment entered
Petitioner,	December 16, 1983;
vs.	Officially filed
JEAN ROSENBAUM,	December 19, 1983.
Respondent.	C O P Y

JUDGMENT OF DISSOLUTION OF MARRIAGE. b.

5. That the parties ceased cohabitating together as husband and wife in the Fall of 1965, and have not cohabitated as husband and wife since that date to the present time; the parties have been living separate and apart from one another since that time without fault or provocation on the part of the petitioner.

6. The petitioner, KURT ROSENBAUM,

b./

The original Judgment consists of 20 pages; only pertinent portions are included herein.

has proved from the testimony of the parties, testimony of witnesses, and the demeanor and conduct of the respondent, by a reponderance of the evidence, that respondent, JEAN ROSENBAUM, has been guilty of extreme and repeated mental cruelty toward the petitioner without any reasonable cause or provocation on petitioner's part.

10. Property acquired and owned by the petitioner either in his own name or jointly with one or more of the children of the parties deemed "marital property" includes the following assets and evaluations ....: (10.1) Cooperative at 1200 East 53rd Street, Chicago, Illinois, $18,000. .....

14. Respondent, upon her retirement, will be the beneficiary of the Teacher's Retirement System Pension Fund and will receive about $160.00 per month...

19. The optometry practice of the petitioner has a minor, or minimal value. Etc.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

B. That petitioner, KURT ROSENBAUM, is hereby assigned and awarded the following as his separate, non-marital property having the approximate evaluations indicated, all of which property is in the name of petitioner solely or with one or more of the children of the parties ....:

(3) Shares in cooperative at 1200 East 53rd Street, Chicago, Illinois, $18,000 (NOTE: the Shopping Center).

(20) Office equipment and inventory of optometry practice $3,000.

(23) Rosenbaum optometry practice, - value, or minimal.

F. That petitioner shall maintain $10,000 and $5,000 insurance policies

on his life, and he shall designate the respondent as irrevocable beneficiary and and pay all premiums for these policies and exhibit proof of payment to respondent each year.

G. The parties shall divide equally the Keystone Fund stock ..... .

K. Each of the parties is hereby ordered to execute such deeds, assignments or other documents which may be necessary or required to effectively vest sole and exclusive title in any of the above property in the other party.

That this court retains continuing jurisdiction of the parties hereto and the subject matter hereof for purposes of enforcing the provisions of this judgment.

ENTER:

DANIEL J. RYAN, Judge

C O P Y

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS COUNTY DEPARTMENT,
DOMESTIC RELATIONS DIVISION.

IN RE THE MARRIAGE OF	
KURT ROSENBAUM,	
Petitioner,	NO. 81 D 22050
and	
JEAN ROSENBAUM,	Order entered
Respondent, acting Pro Se.	January 24, 1984.

C O P Y

ORDER

This cause coming on to be heard this 23rd day of January, 1984, upon JEAN ROSENBAUM, Respondent's "Motion for Court Control of Funds Due Respondent Under Decree," (with Memorandum to Court Re Checks, filed 1/19/84); and the Court being advised in the premises;

IT IS HEREBY ORDERED:

All cash payments required by the Judgment of Dissolution of Marriage, signed 12/16/83, to be paid from Petitioner to Respondent, shall be placed under Court

control, and paid by him regularly to the Clerk of the Circuit Court of Cook County, Illinois, Domestic Relations Division, who shall deposit said funds in a Money Market account at a reputable bank in an account entitled "IN RE THE MARRIAGE OF KURT ROSENBAUM, Petitioner, and JEAN ROSENBAUM, Respondent, acting Pro Se, Circuit Court of Cook County Illinois No. 81 D 22050," said account not to be released to either party hereto, except by proper Court Order, in the future.

Entered: January 24, 1984

JUDGE DANIEL RYAN

(NOTE: A new account was opened at the Amalgamated Bank, Chicago, Ill. for this purpose.)

C O P Y

UNITED STATES CONSTITUTION

AMENDMENTS INVOLVED.

1. AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

2. AMENDMENT XIV.

Section 1. All persons born or naturalized in the United states, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of of the laws.

ILL. REV. STAT. (1989),

Ch. 38, Par. 113-3.1-(b), re

Attorney's Fees for "Contempt."

(e) If the court in any county having a population greater than 1,000,000 determines that the defendant is indigent the court may, upon the filing with the court of a verified statement of such expenses, order the county treasurer of the county of trial, in such counties having a population greater than 1,000,000 to pay the general expenses of the trial incurred by the defendant not to exceed $50 for each defendant.

Amended by P.A. 85-1344, § 2, eff. Aug. 31, 1988.

113-3.1. Payment for court-appointed counsel

§ 113-3.1. Payment for Court-Appointed Counsel. (a) Whenever under Section 113-3 of this Code, Rule 607 of the Illinois Supreme Court, or Section 18 of the Illinois Parentage Act of 1984, as now or hereafter amended,[1] the court appoints counsel to represent a defendant, the court may order the defendant to pay to the Clerk of the Circuit Court a reasonable sum to reimburse either the county or the State for such representation. In a hearing to determine the amount of the payment, the court shall consider the affidavit prepared by the defendant under Section 113-3 of this Code and any other information pertaining to the defendant's financial circumstances which may be submitted by the parties. Such hearing shall be conducted on the court's own motion or on motion of the State's Attorney at any time after the appointment of counsel but no later than 90 days after the entry of a final order disposing of the case at the trial level.

(b) Any sum ordered paid under this Section may not exceed $500 for a defendant charged with a misdemeanor, $5,000 for a defendant charged with a felony, or $2,500 for a defendant who is appealing a conviction of any class offense.

ILL. REV. STAT. (1989),

Ch. 40, Par. 508(b).

Marriage and Dissolution of Marriage Act.

508. Attorney's fees

§ 508. Attorney's Fees. (a) The court from time to time, after due notice and hearing, and after considering the financial resources of the parties, may order either spouse to pay a reasonable amount for his own costs and attorney's fees and for the costs and attorney's fees necessarily incurred or, for the purpose of enabling a party lacking sufficient financial resources to obtain or retain legal representation, expected to be incurred by the other spouse, which award shall be made in connection with the following:

(1) The maintenance or defense of any proceeding under this Act.

(2) The enforcement or modification of any order or judgment under this Act.

(3) The defense of an appeal of any order or judgment under this Act, including the defense of appeals of post-judgment orders.

(4) The maintenance or defense of a petition brought under Section 2-1401 of the Code of Civil Procedure[1] seeking relief from a final order or judgment under this Act.

(5) The costs and legal services of an attorney rendered in preparation of the commencement of the proceeding brought under this Act.

(b) In every proceeding for the enforcement of an order or judgment when the court finds that the failure to comply with the order or judgment was without cause or justification, the court shall order the party against whom the proceeding is brought to pay the costs and reasonable attorney's fees of the prevailing party.

(c) The court may order that the award of attorney's fees and costs hereunder shall be paid directly to the attorney, who may enforce such order in his name, or that they be paid to the relevant party. Judgment may be entered and enforcement thereof had accordingly.

ILL. REV. STAT. (1989)

Ch. 110, Section 2-1401.

(Relief from final Judgments after 30 days.)

PART 14. POST-JUDGMENT

2-1401. Relief from judgments

§ 2-1401. Relief from judgments. (a) Relief from final orders and judgments, after 30 days from the entry thereof, may be had upon petition as provided in this Section. Writs of error coram nobis and coram vobis, bills of review and bills in the nature of bills of review are abolished. All relief heretofore obtainable and the grounds for such relief heretofore available, whether by any of the foregoing remedies or otherwise, shall be available in every case, by proceedings hereunder, regardless of the nature of the order or judgment from which relief is sought or of the proceedings in which it was entered. There shall be no distinction between actions and other proceedings, statutory or otherwise, as to availability of relief, grounds for relief or the relief obtainable.

(b) The petition must be filed in the same proceeding in which the order or judgment was entered but is not a continuation thereof. The petition must be supported by affidavit or other appropriate showing as to matters not of record. All parties to the petition shall be notified as provided by rule.

(con't.)

(c) The petition must be filed not later than 2 years after the entry of the order or judgment. Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years.

(d) The filing of a petition under this Section does not affect the order or judgment, or suspend its operation.

(e) Unless lack of jurisdiction affirmatively appears from the record proper, the vacation or modification of an order or judgment pursuant to the provisions of this Section does not affect the right, title or interest in or to any real or personal property of any person, not a party to the original action, acquired for value after the entry of the order or judgment but before the filing of the petition, nor affect any right of any person not a party to the original action under any certificate of sale issued before the filing of the petition, pursuant to a sale based on the order or judgment.

(f) Nothing contained in this Section affects any existing right to relief from a void order or judgment, or to employ any existing method to procure that relief.

ILL. REV. STAT. (1989),

Ch. 110-A, Par. 305(a)(b).

Re: Stays

110A ¶ 305
S. Ct. Rule 305

305. (Supreme Court Rule 305). Stay of Judgments Pending Appeal

(a) Stay of Enforcement of Judgment for Money Only.

(1) An appeal stays the enforcement of a judgment for money only if a notice of appeal is filed within 30 days after the entry of the judgment appealed from and a bond in a reasonable amount to secure the appellee is presented, approved, and filed within the same 30 days or within any extension of time granted under subparagraph (2) of this paragraph. Notice of the presentment of the bond shall be given to the appellee.

(2) On motion made within the same 30 days or any extension thereof, the time for the filing and approval of the bond may be extended by the trial court or by the reviewing court or a judge thereof, but the extensions of time granted by the trial court may not aggregate more than 45 days unless the parties stipulate otherwise. A motion in the reviewing court for any extension of time for the filing and approval of the bond in the trial court must be supported by affidavit and accompanied by either the record on appeal or such parts of it as are relevant.

(con't.)

(b) Stay of Enforcement of Judgments and Appealable Orders by Order of Court.

(1) On notice and motion, and an opportunity for opposing parties to be heard, the trial court, or the reviewing court or a judge thereof, may stay pending appeal the enforcement of a judgment for money only not stayed by compliance with paragraph (a) of this rule, or the enforcement, force and effect of any other final or interlocutory judgment or judicial or administrative order.

(2) Application for a stay ordinarily must be made in the first instance to the trial court. A motion for a stay may be made to the reviewing court, or to a judge thereof, but such a motion must show that application to the trial court is not practicable, or that the trial court has denied an application or has failed to afford the relief that the applicant has requested, and must be accompanied by suggestions in support of the motion and by the record on appeal or a short record.

(3) The stay, whether granted by the trial or reviewing court, shall be conditioned upon such terms as are just. A bond may be required in any case, and in the case of a judgment for money, or a stay for the protection of interests in property, shall be required.

(4) An appeal from an order dissolving an injunction does not continue the injunction in force unless the trial court, or the reviewing court or a judge thereof, so orders for good cause shown and upon such terms as are just, which may include the filing of a bond.

(5) If a stay is granted by the reviewing court or a judge thereof, the clerk shall notify the appellee and transmit to the clerk of the trial court a certificate in substance as follows:

1354 West Greenleaf Street
Chicago, Illinois 60626
July 12, 1989

RECEIVED
JUL 14 1989
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Mr. Francis J. Lorson, Chief Deputy Clerk
Supreme Court of the United States
Supreme Court Building
Washington, D. C. 20543

Re: Jean Rosenbaum v. Kurt Rosenbaum
U. S. Supreme Court No. 87-1320

Dear Sir:

I would like to know if Kurt Rosenbaum, or Edward A. Berman, attorney acting on his behalf, filed any documents or wrote any letters involving the aforementioned case, addressed to your office.

At the time I was told verbally that they had not, but I would like to have this confirmed in writing.

If anything was filed or mailed to you by them, I would like to know the date, and its nature.

Thanking you in advance, I am

Very truly yours,

J Rosenbaum

Mrs. Jean Rosenbaum

Nothing has been received by this office - Lorson 7/13/89

Appendix (113)

EXHIBIT "A"

KEYSTONE INVESTOR RESOURCE CENTER

STOCK POWER

FOR VALUE RECEIVED, _____ hereby
(I, We)

☐ Redeem
☐ Transfer unto _____

(Name of Transferee - If registration requested is in more than one name, shares will be registered as "Joint Tenants with Right of Survivorship" unless otherwise instructed.)

_____
(Address, Social Security #)

_____ _____

_____ shares of Keystone Series B-1, B-2, B-4, K-1, S-1 & S-3
(Number) (Name of Fund)

standing in the name of Kurt Rosenbaum & Jean Rosenbaum JT TEN WROS
(Registration)

on the books of said fund under account number 44/45/46/47/49/50-8077183009 and do hereby irrevocably constitute and appoint Keystone Investor Resource Center attorney to transfer the said shares on the books of the within named fund with full power of substitution in the premises.

Dated _____

(KURT ROSENBAUM) Kurt Rosenbaum

(JEAN ROSENBAUM) _____

Appendix (114)

EXHIBIT "B"

11

Ref. 10

KEYSTONE INVESTOR RESOURCE CENTER

STOCK POWER

FOR VALUE RECEIVED, 1/2 Kurt Rosenbaum
1/2 Jean Rosenbaum (I, We) hereby

☐ Redeem
☒ Transfer unto _____

(Name of Transferee - If registration requested is in more than one name, shares will be registered as "Joint Tenants with Right of Survivorship" unless otherwise instructed.)

_____

(Address, Social Security #)

_____ shares of B-1, B-2, B-4, K-1, S-1, S-3

(Number) (Name of Fund)

standing in the name of Kurt Rosenbaum
Jean Rosenbaum JT WROS

(Registration)

on the books of said fund under account number 44/45/46/47/49/50 and do hereby irrevocably constitute and appoint Keystone Investor Resource Center attorney to transfer the said shares on the books of the within named fund with full power of substitution in the premises.

Kurt Rosenbaum

Aprendix (115)

EXHIBIT "C"

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

PETITIONER'S AFFIDAVIT

I, JEAN ROSENBAUM, being first duly sworn upon oath, depose and state I am the Respondent, Appellant, Petitioner, acting Pro Se in the aforestated cause, that I have read the foregoing PETITION FOR WRIT OF CERTIORARI with attached APPENDIX by me subscribed, that I know the contents thereof, and the same are true in substance and in fact.

Jean Rosenbaum

JEAN ROSENBAUM, Respondent, Appellant, Petitioner, acting Pro Se. *

Subscribed and sworn to before me, a Notary Public of the State of Illinois, County of Cook, this 31st day of August, 1991.

Notary Public *

* See copy marked "Notarized Copy" for original signatures.

Jean Rosenbaum, Pro Se
1354 West Greenleaf Street
Chicago, Illinois 60626
973-6047 (312)